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## **DOCUMENTING THE UNDOCUMENTED: A REVIEW ON THAI-PHILIPPINE LABOUR POLICIES AND THE IMPACT TO UNDOCUMENTED FILIPINO MIGRANT WORKERS**

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### **Abstract**

*The Association of Southeast Asian Nations (ASEAN) is in the final stages of its planning for integration in the year 2025 (Valente, 2013; Novio, 2012). Different issues arise on how the focus on economic development can affect social development and impact the human rights of ASEAN citizens (Valente, 2013). One of the issues that are discussed is on migrant workers. The Philippine government sees the integration as an opportunity for more jobs since there will be an increase of exchange on economic goods, yet other labour groups see it as a “further implementation of neo-liberal policies” (Labog in Valente 2013). The ASEAN Convention on Migrant Workers (ACMW) is focused on creating and implementing policies for skilled migrant ASEAN citizens, and the accreditation of their qualifications among ASEAN members, while there was very few mentioned on unskilled and undocumented workers (Chalamwong, 2012; Hall et. al., 2012; Valente, 2013). This research presents one of the flaws in the system as two members of ASEAN (Philippines and Thailand) have different existing laws, lack laws in accordance with international conventions, and weak implementations of effective laws that led to the increase and abuse of undocumented Filipino workers in Thailand. The research will challenge both states as to accountability and their action plans to change the conditions of Filipino migrant workers, and then improve the policies on ACMW for the benefit of all undocumented workers in the region.*

## **Keywords**

Labour Migration, Migration Issues, Policies, Politics

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## **1. Introduction**

### **1.1 Statement of the Problem**

This paper examines the existing laws in the Philippines and in Thailand with regard to migration for employment, looking closely on the implementation processes of these laws and on how the bureaucratic systems can push more Filipino workers to become undocumented. The author will review all the procedures from recruitment, to registration as a migrant worker, and even on the efficiency and effect of these laws in relation to rights protection and rights claim.

Article 18 of the Labor Code of the Philippines bans direct hiring of Filipino employees from companies overseas (1974 Labor Code; Rojas, 2009). In addition, Republic Act 10022 has some provisions and the implementation of these provisions by the Philippine Overseas Employment Agency (POEA) make it complicated for a Filipino worker to be hired. Different issues arise, such as (a) over-priced placement fees from employment agencies, (b) above-average medical assessment fees, (c) problems with contracts, (d) lack of information dissemination, and (e) time-consuming application procedures (Gonzales, 2011; Hall, Mai Thi, and Manajit, 2011; Rojas, 2009). The complications in the existing laws, and delays caused by the bureaucratic systems have led many Filipino workers to seek for easier and faster means that eventually pushed them to become undocumented (Gonzales, 2011; Rojas, 2009; Valente, 2013). On the other hand, in Thailand, work permits can only be granted if the migrant worker has a legitimate employer that invested a capital of at least 2,000,000.00 Thai Baht for every work permit (Alien Working Act, B.E. 2551). In 2010, 93.8% of all establishments in Thailand are small and medium enterprises that cannot sponsor, or can only sponsor 1 to 3 work permits based on their capital investments (Islam, et. al. 2011; Wiboonchutikula, 2001). This law gives migrant workers a slim chance to find legitimate employers.

This paper argues that the ineffective implementation of applicable laws and the inefficient bureaucratic systems hold both states accountable for the increase of undocumented Filipino workers, and exposing them to high risks of rights violations. Philippine and Thai authorities should properly re-assess existing laws as to their efficiency, and must structure effective means of implementing applicable laws for undocumented migrant workers, the undocumented Filipino workers in particular. Moreover, this case study should be reviewed by the ASEAN Convention on Migrant Workers for better policies on the ASEAN integration in 2015.

### **1.2 Background of the Study and Review of Related Literature**

In 2007, the POEA issued Memorandum Circular 04 that regulates all workers to be deployed

must be hired by an accredited placement/employment agency with the exceptions of those that are hired by “government-to-government placement by POEA”, and those that were able to find employment without the assistance of a placement/employment agency but whose documents are processed by POEA (Rojas, 2009). MC 04 resulted in the requirement of a POEA “exit clearance” at immigration offices before the worker can be deployed to the country of employment (Gonzales, 2011; Rojas, 2009; Valente, 2013).

The process of getting an “exit clearance” for directly hired employees requires the following documents: a passport that is valid for at least six months from time of departure, a valid work visa or work permit, valid employment contract that is authenticated by the Philippine embassy/consulate of the country to where the worker will be employed, a medical assessment conducted only from the Department of Health’s accredited medical centres, and a Pre-Departure Orientation Seminar (POEA, 2012; Citizen Services, 2009). The requirements are rigid to protect Filipino workers from being at risk of abuse overseas; yet, because of the high volume of applicants, the process can be complicated, time-consuming, and costly (Gonzales, 2011). On the other hand, workers that processed employment from agencies are facing excessive placement fees, and issues on contracts (Hall, Mai Thi, and Manajit, 2011; Rojas, 2009).

The requirement of “exit clearance” at immigration offices is also unconstitutional and a violation to international policies (Tiglao, 2011). Section 6 of the Philippine Constitution’s Bill of Rights states, “Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.” Apparently, no one seems to question the constitutionality of these policies, and so immigration officers continue to require exit clearances from Filipino workers, and off-loading Filipino travelers that are suspected to be seeking work overseas (Tiglao, 2011). The Philippines has also ratified international conventions on human rights to travel, and the Philippine immigration practices are in contradiction to these international conventions:

*“Everyone has the right to leave any country, including his own, and return to his country”*  
(Article 13 No. 2, Universal Declaration on Human Rights, 1948).

*“Everyone shall be free to leave the country, including his own”* (Article 12 No. 2, International Covenant on Civil and Political Rights, 1966).

*“Migrant workers and members of their families shall be free to leave any state, including their state of origin”* (Article 8, Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, 2014).

With all these taken into consideration, the Philippine laws are making it complicated for a Filipino worker to be approved to work overseas; only to find out that these laws are questionable

in terms of constitutionality and in accordance with the international conventions. These laws can discourage any Filipino worker to undergo through the proper procedures, and worse, can discourage overseas employers, risking a Filipino worker to lose his job.

On Thailand's policies, apart from the issues on work permits that can only be granted for every 2,000,000 Thai baht investment from businesses, work permits (links the migrant's registration status to the employer) can also lead to debt bondage since most employers pay in advanced the registration fees of their migrant workers (UPR on Thailand, 2011; Alien Working Act, B.E. 2551). These laws will limit the chances of migrant workers in getting legitimate employers to sponsor them on work permits; or can discourage migrant workers to obtain work permits because on the fear of debt bondage. Furthermore, the Thai government considers all migrant workers that do not hold work permits or those are not registered in the system (e.g. Nationality Verification) as "illegal"; and therefore, they can be arrested, detained and deported (UPR on Thailand, 2011).

To worsen situations, the Thai government also lacks laws for the protection of migrant workers (Broadmoor, 2002). In 2002, Ian Chambers of the ILO Bangkok said, "The biggest problem evident in Thailand and Southeast Asia is that a legal status is not occurring. The recognition process does not give rights to the workers. Without it they remain the most vulnerable sector of the population." In addition, In 2011, the joint submission of migrant workers and their families in Thailand for the 12<sup>th</sup> session in the Universal Periodic Review stated that Thailand has not ratified the following international conventions: (a) International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW), (b) ILO Article 87 – Freedom of Association and Protection of the Right to organize (1948 San Francisco), ILO Article 98 – Right to Organize and Collective Bargaining (1949 Geneva), (d) ILO Article 111 – Discrimination in Employment and Occupation (1958 Geneva). The joint submission also stated that Thailand has reservations on CEDAW Article 16, and Article 29 (paragraph 1). If there are no local laws in Thailand that will protect migrant workers, then anyone can expect that undocumented workers will be discouraged to undergo tedious processes and high costs for registration since it can only provide them with lesser benefits, as to rights protection and rights claim are concerned.

The POEA said, 'the Filipino workers in Thailand (registered) declined from 9,204 in the year 2012 to 6,021 in 2013' (POEA in Calleja, 2014). Yet in 2012, the estimated number of Filipino overseas workers and Filipino residents abroad went up to 10.4 million, and about 3,600 are believed to be undocumented workers in Thailand (DFA et. al., 2010).

The increase on the number of undocumented migrant workers has led to corruption practices in the government offices at the land and sea borders (Broadmoor, 2002; Scharf, 2012). This has also put the undocumented workers at high risk of extortion from illegal employment and visa

agencies, and even abuse from corrupt immigration officials (Schearf, 2012). Thus, many undocumented workers will be at a risk of losing their rights, and will be subjects to unfair labour practices; bonded slavery; non-availability to public health, security, and educational services; and to poor living conditions (Schearf, 2012; Novio, 2012; Setyawati, 2013). Moreover, in most legal proceedings, undocumented migrant workers get to face the consequences of the situation; they experienced detention with poor living conditions and inhumane treatment, they get whipped, they had to pay penalties, and they faced deportation; while employers are only charged with monetary penalties (Gonzales, 2007; Section 54: Alien Working Act, B.E. 2551).

### **1.3 The Different Levels of Commitment and Gaps to Migrant Workers' Protection**

To lay out the different levels of commitment from both countries when it comes to the rights-protection of migrant workers, the Philippines show more commitment as it has ratified the international conventions, and it has existing policies that ensure all Filipino migrant workers are hired by legal employers and are aptly compensated. However, the poor implementation of these policies and the bureaucratic systems; plus, the high costs for applications, are pushing Filipino workers to find easier, faster, and cheaper means to get employment abroad. Thus, they got easily lured into human trafficking, or they end up working as undocumented workers in other countries, like Thailand.

Although Thailand has effective labour laws that protect the rights of their own workers, Thai laws are very limited when it comes to the protection of migrant workers. Furthermore, Thailand, has not ratified any of these international conventions: (a) International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW), (b) ILO Article 87 – Freedom of Association and Protection of the Right to organize (1948 San Francisco), ILO Article 98 – Right to Organize and Collective Bargaining (1949 Geneva), (d) ILO Article 111 – Discrimination in Employment and Occupation (1958 Geneva). Therefore, there is much work needed from Thailand's side to migrant workers' rights protection.

## **2. Research Design and Methodology**

### **2.1 Hypothesis**

From a central question on what causes the increase of undocumented Filipino workers in Thailand, the following hypotheses are drafted: (a) that both Philippines and Thailand have existing laws that pushes Filipino workers to choose easier procedures and become undocumented, (b) that the lack of local laws, in accordance with international conventions, have left none opportunities for registration, leading to the increase of undocumented migrant workers, and (c) that the weak implementation of effective laws from both states have caused corruption in authorities, giving Filipino workers an easier option to find employment overseas, but also leading them to become

undocumented.

## **2.2 Field Site**

The field sites are cities and towns in Thailand where there are a high number of Filipino workers. The identified locations are Bangkok, Chiang Mai, Phuket, Pattaya, Phitsanulok, Khampeang Phet, and Sukhothai (Philippine Embassy in Thailand, 2013; Novio, 2012).

## **2.3 Research Participants**

The research participants are Filipino workers (documented and undocumented) that will voluntarily participate in the research, and will grant their informed consents. The reason why documented workers are also to be imparted is for comparison analysis between the experiences of documented workers and undocumented workers with regard to concerns on registration procedures and costs, expectations from employers, compensation and benefit issues, abuses and unfair labour practices, protection from laws on both states, availability and access to public services and public health services, and protection and rights claim of their family members.

Experts will also be interviewed; and experts will involve government officials and authorities from both states, NGO's that work on Filipino migrant workers' rights, lawyers and legal experts on international laws, and academic and researchers that work on similar researches.

## **2.4 Data Collection**

A semi-structured interview will be conducted to vulnerable participants whose lines of work need high confidentiality, e.g. sex workers, domestic workers, factory workers; and also to participants that opted for an individual interview and prefer anonymity in his/her participation. There will be guide questions to keep the interview in track, but participants will be allowed to discuss further issues that they believe will be useful for the research; plus, the researcher may need to ask follow up questions to extract more detailed information if necessary for research purposes (Harrel and Bradley, 2009; Berry, 1999; Gil et. al., 2008). Semi-structured interviews will also be used to conduct interviews on identified experts.

A focus group discussion is opted to be more of an advantage for participants that work in the same workplace or location, e.g. wait staff, bar staff, English language teachers, and hospitality staff. This method is time efficient for workers who already know each other and share similar experiences (Harrel and Bradley, 2009). In addition, this method is also effective to generate the collective perception and ideas on the above-mentioned hypotheses; and will also allow the researcher to gather individual thoughts and arguments on the hypotheses (Gil et. al., 2008).

Extraction and secondary data collection will also be used to address concerns on the legalities of the researcher's claims as constitutions and ASEAN regional policies will be referenced, including other similar research works, published articles, and public documents on national and

regional laws and their impacts to Filipino migrant workers in Thailand in terms of their work- life conditions, rights protection, and rights claim. Secondary data will be an effective tool to validate data of research from previous and current similar research works (Harrel and Bradley, 2009).

## **2.5 Data Analysis**

First, documentation will be done to collect and understand responses that are not direct answers to the guide questions but may be very useful for the research, while keeping other responses in the notes for future use.

Documentation is a good technique to analyze and clarify responses of the participants (Schutt, 2011).

Second, conceptualize the impact of responses on the research through how it can strengthen or weaken the hypotheses. Categorize all data collected to similar responses, and then assess them according to the value of their impact by coding them as higher impact to lower impact. Higher impact responses are those that answer the guide questions directly, while lower impacts are those responses that are neither necessary in the publication of the research, nor can affect the hypotheses.

Third, summarize and analyze responses, and establish a strong comparative study on the positive impacts against negative impacts. Weigh how the summary of higher impact/positive responses can strengthen the research claims, and how the higher impact/negative responses question the validity of research claims. Draw from this analysis, a conclusion of the research.

Fourth, extracted and secondary data collection will be used as reference to examine the relationship between the legal aspects of international conventions and national laws to the research conclusions and suggestions. These data will be used to further authenticate the research conclusion and suggestions (Schutt, 2011).

## **2.6 Ethical Considerations**

The data to be collected from the research participants will involve sensitive and highly confidential information; thus, the researcher has to properly inform individuals that the data gathered will be used solely for research purposes, and for the benefits that this research may contribute to the society and to the welfare of undocumented Filipino overseas workers specifically, and to undocumented workers in ASEAN in general.

The researcher must inform the participants that their involvement in this research is voluntary, and that they own the rights to withdraw their participation at any time. In addition, the researcher will also inform the participants that they have full authority to screen information that can only be published, believing that all these information will be necessary for the research to obtain its objectives, and necessary to answer the research questions. Having said all these, the researcher must treat all information with high confidentiality, or anonymity if necessary, and to be

used only for the sole purpose these may serve.

The interviews will be conducted by the researcher in the English language; an official interpreter may be required in case a participant will respond in the local language. The official interpreter is required to avoid biases of interpretations on the participant's responses. The participation of an interpreter will need to have an approval from the participant, in case he/she feels that his/her answer can only be shared with the researcher for its nature of confidentiality.

### **3. Results and Discussions**

This research interviewed 30 documented Filipino workers, working in Thailand as grade school teachers, high school teachers, English language teachers, hotel receptionists, and company executives (human resource managers, marketing managers, PR consultants, and Operations managers). This research has also interviewed 45 undocumented workers, working in Thailand as commercial sex workers, domestic workers for rich Thai families, English language teachers in small English language schools and language camp programs, assistants in backpackers' hostels, wait staff in restaurants, and entertainers in clubs and smaller hotels.

All of the 30 documented workers are paid from 30,000 Thai Baht (1,000 USD) to 100,000 Thai Baht (3,300 USD) per month. Plus, benefits of medical and life insurance coverage, year-end or performance bonuses, and free accommodation are offered. While the undocumented workers earn from 10,000 Thai Baht (400 USD) to 20,000 Thai Baht (700 USD) per month. The undocumented workers neither receive bonuses nor insurance coverage. Free accommodation is offered to a few of them; mostly, those who work as assistants in the hostels, the domestic workers, and the English language teachers in the English camp programs.

#### **3.1 Respondents' Responses**

The domestic workers share common responses that an income of 350 – 400 USD per month is far from what they could earn as domestic workers in the Philippines. Because of their capacity to communicate in English language, they have lighter workloads as they only tend to the children of the families. Working as domestic workers in the Philippines means lower income and more workload. They also shared that since they work from sunrise to late nights, they end up saving their earnings and send more money to their families in the Philippines. They are aware that they could never get a legal status working in Thailand because of the existing Thai laws; and, also because of the lack of laws that support low skill workers in the country. When asked about asking help from the Philippine embassy, the common response is that the embassy can only help them in as much as sending them home. They are also aware that since they did not undergo with the proper process of applying work overseas from the Philippine's government employment agency, it will be difficult to ask for help for work placement. 6 out of 8 domestic workers shared that if given the



choice to live in the Philippines with their families, they will choose it. However, because of the need to support their families; and, because of the lack of jobs in the Philippines that will pay them as much as what they are earning at present, they are forced to stay and live in Thailand. All of these domestic workers believe that their quality of work may be much better from doing domestic work in the Philippines; but, their quality of life is very low and uncertain. They said that their workload may be lighter, but the hours of work are longer and that they fear for medical expenses in case of sickness. Moreover, because of their status as undocumented workers, they also fear on the security of their jobs, and even on the salaries. Some of these domestic workers responded that their employers sometimes missed paying a month or two of their salaries, but they could not do anything, and they will only have to wait until they got paid. One of them even experienced not being paid for 6 months; and, when the employer started paying her, the employer still lacks 1 month of salary. She did not bother to question the employer because of the fear of losing the job.

Fifteen of the undocumented workers that were interviewed are wait staff and hospitality staff in small hostels and local restaurants. The interview was conducted in focus group discussions for respondents who work in the same establishments, and the most common response is that their jobs in Thailand pay better than doing the same jobs in the Philippines. Plus, most of their employers provide free accommodation. The living condition may be very poor; however, it is free and the money that they saved for accommodation expenses can be sent back home to their families, or for savings. 90% of the hospitality staff said that their situation in Thailand are only temporary; either because they want to help in the financial issues with their families, or saving money to apply for better opportunities in Canada. 100% of the respondents agreed that they prefer to stay in Thailand only if they have legal work permits and can receive better work benefits (medical benefits, life insurance, paid leaves). 13 out of 15 respondents are satisfied with their pay, their workload, their way of life in Thailand; however, all of the 15 also agreed that they have fears because there is no security for their jobs, no security of their stay even because if they get caught, they can be deported. They also experience severe homesickness because the money that they will use to fly back home can be sent to their families; moreover, because they have been doing visa runs for years, if they will go back home to the Philippines, it will be difficult for them to leave the country because Philippine immigration will be very suspicious of their purpose for their next travels overseas. The Philippine immigration is very tight on illegal work migration. Hence, rather than going home and risk their jobs, they prefer to stay in Thailand and do the exits in the neighboring countries. 2 of the 15 respondents have been staying in Thailand for 12 years and have been doing visa runs so just to make their stay legal.

This research also interviewed 18 teachers who do not have work permits because their jobs

are seasonal in the English language camps and in small English language centers. The teachers were interviewed in focus groups and individual interviews, depending on their availability. Although they get the better pay among the undocumented migrant worker but they express concerns of their job security. Some of them get the contract of English summer camps every year; while some are not renewed. So, they apply to small English language centers to earn while waiting for the next English camps. The problem with small English language centers is that they have a smaller population; hence, the work is not regular. The teachers are only called to work when there are enrollees. However, all 18 teachers believe that if they will just live frugally, they can save money and survive until the next English language camps, where they are paid higher for 2-3 months. The English camps mostly happen every summer break, but there are also specialized English language camps in the middle of the year. They said that for their contracts to be renewed for the next camps, they need to perform well. Regarding to working back in the Philippines as English language teachers, 85% of the respondents said that there are still more opportunities in Thailand than in the Philippines. In the Philippines, there are so many English language teachers who are very competent; thus, the competition for the teaching jobs is very tough. Even applying for the call centers in the Philippines is challenging for them. These teachers are also not qualified to apply for legal teaching status in Thailand because they lack the qualifications and requirements from the Thai international schools. Hence, they prefer to stay in Thailand. They share the same concerns with all the undocumented workers: about the security of jobs and the lack of work benefits.

The last group this research interviewed are 6 commercial sex workers. 4 of the commercial sex workers interviewed are transgenders; 1 male sex worker, and 1 female sex worker. All of the sex workers responded that they prefer living and working in Thailand because there is no stigma attached to sex workers; most especially the transgenders. Plus, the high volume of tourists coming to the Thailand gives them more opportunities to earn. Unlike in the Philippines, they feel more empowered working as sex workers in Thailand because they are not tied-up to a brothel, and they deal directly with their clients. Their income ranges from \$50-\$150 US dollars per client. They also feel at an advantage because they can communicate in English and the tourists prefer to deal with them than the locals. Like all other undocumented workers, they also do the 'visa-runs' to renew their legal stay in Thailand monthly. 3 of the respondents have been working in the industry for 9 years in Thailand, while the rest have been in Thailand for 5 years; except for the male respondent who started working as go-go dancer and sex worker 1 year and 8 months ago. Their main concerns are that if deported, they fear that the Philippine immigration might ban them from traveling out of the Philippines again. They are not worried about health issues because they said that they have all

been saving money in case the need arises. They are all experiencing home sickness because all of them have never been home from the time that they left the Philippines; but 2 of the respondents have already saved up money and got their families to visit them in Bangkok. They said that their income is a big help to their families back in the Philippines.

### **3.2 Visa Runs**

All of the respondents have engaged in visa runs. Every 21 days they will have to exit the borders either in Cambodia, Malaysia or Laos; but mostly, they run to Myanmar because this is the closest to Bangkok. Visa runs will cost them 1,900 THB (62 USD); plus the cost of the bus fare which is about 1,300 THB return-fare (51 USD). Hence, an average of 100 USD is deducted from their monthly income just to keep their stay legal. This is already a big monthly contribution to the bus businesses in Thailand considering the average of 8,000 undocumented Filipino workers. Out of the 45 respondents, 11 shared of their travel agent's connection to the borders, and that they no longer need to take the bus and lose 1 day of work for the travel time. They will just hand out their passports to their travel agents and pay the costs; and then, on the following day, they can claim their passports back from their travel agents and will already have renewed stamps. The costs are similar but they save the time and effort of traveling to and from the borders.

### **3.3 Philippine and Thai Labour Policies**

The main discussion of this research is that on the labour policies of Philippines and Thailand that worsen the situation of Filipino migrant workers and lessen their chances in obtaining legal status. Thailand's policies specifically require 2,000,000 THB investment for the businesses to sponsor one legal work permit; apart from this issue on work permits, work permits (links the migrant's registration status to the employer) can also lead to debt bondage since most employers pay in advanced the registration fees of their migrant workers (UPR on Thailand, 2011; see also Alien Working Act, B.E. 2551). These laws will limit the chances of migrant workers in getting legitimate employers to sponsor them on work permits; or can discourage migrant workers to obtain work permits because on the fear of debt bondage. In addition, the Thai government also lacks laws for the protection of migrant workers (Broadmoor, 2002). If there are no local laws in Thailand that will protect migrant workers, then anyone can expect that undocumented workers will be discouraged to undergo tedious processes and high costs for registration since it can only provide them with lesser benefits, as to rights protection and rights claim are concerned.

However, for the Philippine policies, Article 18 of the Labor Code of the Philippines bans direct hiring of Filipino employees from companies overseas (1974 Labor Code; Rojas, 2009). Moreover, Republic Act 10022 has some provisions and the implementation of these provisions by POEA make it complicated for a Filipino worker to be hired. Different issues arise, such as (a) over-

priced placement fees from employment agencies, (b)above- average medical assessment fees, (c)problems with contracts, (d)lack of information dissemination, and (e)time-consuming application procedures (Gonzales, 2011; Hall, Mai Thi, and Manajit, 2011; Rojas, 2009). The complications in the existing laws, and delays caused by the bureaucratic systems have led many Filipino workers to seek for easier and faster means that eventually pushed them to become undocumented (Gonzales, 2011; Rojas, 2009; Valente, 2013).

#### **4. Conclusion**

As discussed by other researchers cited in this research and from the common responses shared by the respondents, it is all about the policy that has existed for more than 20 years and has not been reviewed for amendment; plus, the lack of implementation of the policies are pushing the Filipino migrant workers to find faster, easier, and cheaper ways to get jobs overseas. Moreover, tedious and lengthy process in the government procedures without an assurance of proper protection and benefits are also discouraging the Filipino migrant workers to proceed with the legal and proper process.

#### **5. Recommendations**

This research highly recommends that both governments should review and assess their existing labour policies if they are still effective and efficient for the benefit of both the migrant workers and to the economy. Second, this research also highly suggests that both governments review their systems and the implementation process of their systems because the bureaucratic systems and the costly/lengthy procedures discourage migrant workers to register as legal migrant workers. In addition, both governments should define clearly what are the protection benefits that these migrant workers get to encourage them to register. Third, both governments should study what can be done to help those that are already working in Thailand; with regards to medical insurance, life insurance, performance bonuses, paid leaves, and to those that have been working for more than 9 years and have not yet gone home to see their families.

Specifically, for the Philippines, Article 18 of the Labor Code that bans direct hiring of Filipino employees from companies overseas, and the highly bureaucratic system of Republic Act 10022 that caused the lengthy and costly procedures, should be amended. The Philippines has ratified international conventions for the Protection of the Rights of All Migrant Workers and Members of Their Families, including the civil and economic rights to travel and seek employment; hence, the Philippines should improve its laws and make sure that they are aligned to the international conventions that it ratified.

As for Thailand, the country can start by ratifying one of the following international

conventions: (a) International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (ICRMW), (b) ILO Article 87 – Freedom of Association and Protection of the Right to organize (1948 San Francisco), ILO Article 98 – Right to Organize and Collective Bargaining (1949 Geneva), (d) ILO Article 111 – Discrimination in Employment and Occupation (1958 Geneva). All of these international conventions discuss rights protection of migrant workers. If Thailand can ratify at least one, then, it is a big step for Thailand to be committed on workers' protection and workers' welfare. In addition, if Thailand does not want to ratify the international conventions, at least, the country can recognize the migrant workers' contribution to the Thai economy. This recognition will then place local policies that will ensure the protection of the rights of migrant workers and promote their welfare.

There is no doubt that the undocumented Filipino migrant workers have contributed to the economy of both countries; thus, it is only right for the governments not only to focus on the economic benefits that these workers bring to their countries, but must also consider the welfare of the workers.

## References

- Acosta, P. 2014. A Case of OFW Contract Substitution. Source: The Manila Times.
- Alien Working Act, B.E. 2551, Thailand. Cited 2 April 2014. [http://www.no-trafficking.org/content/Laws\\_Agreement/laws\\_agreement\\_pdf/alien%20work%20act%20b.e.%202551%20\(eng.\).pdf](http://www.no-trafficking.org/content/Laws_Agreement/laws_agreement_pdf/alien%20work%20act%20b.e.%202551%20(eng.).pdf)
- Ambito, J. and Banzon, S. 2011. Review of Philippine Migration Laws: Gain, Gaps, and Prospect. Philippine Institute for Development Studies. Discussion Paper Series No. 2011 – 37.
- Agunias, D.R. and Ruiz, N. 2007. Protecting Overseas Workers: Lessons and Cautions from the Philippines. Insight. Migration Policy Institute.
- Arellano law Foundation. 2009. The LawPhil Project. *Antonio Serrano versus Gallant Maritime Services Inc. and Marlow Navigation Company, Inc.* Cited 29 September 2014. [http://www.lawphil.net/judjuris/juri2009/mar2009/gr\\_167614\\_2009.html](http://www.lawphil.net/judjuris/juri2009/mar2009/gr_167614_2009.html)
- ASEAN Convention on Migrant Workers (ACMW). Cited 3 April 2014. <http://www.asean.org/communities/asean-political-security-community/item/asean-declaration-on-the-protection-and-promotion-of-the-rights-of-migrant-workers-3>
- Asia News Monitor, 2013, Jul 26. Thailand: Thailand to extend deadline for undocumented migrant worker registration.
- Asia Pacific Migration Research Network. 2011. Migration Issues in the Asia Pacific: Issues Paper from Thailand. Social and Human Sciences. UNESCO. Cited 15 April 2014.

- <http://www.unesco.org/most/apmrnw14.htm>
- Asis, M. 2008. How International Migration Can support Development: A Challenge for the Philippines (Geneva; International Organisation for Migration).
- Asis, M. 2006. The Philippines' Culture of Migration. Cited 28 December 2014.  
<http://www.migrationpolicy.org/article/philippines-culture-migration>
- Bello, W., 2011. Report on the Committee of Overseas Workers Affairs. House of Representatives. 15th Philippines Congress.
- Betts, A. 2008. Global Migration Governance. University College. Oxford.
- Broadmoor, T., 2002, Oct. Land of Guile: Migrant Workers in Thailand; Source: Irrawaddy, Vol.10, No. 8.
- Bulatlat. 2013. Issues Confronted by OFW's. Cited 10 October 2014.  
<http://bulatlat.com/main/2013/12/28/3-issues-confronted-by-ofws-in-2013/>
- Calleja, N., 2014, Jan 27. POEA bans deployment of workers to parts of Thailand; Source: Philippine Daily Inquirer.
- Castles, S. 2004. Why Migration Policies fail. Ethnic and Racial Studies. Volume 27 No. 22. Pp. 205-227. <https://doi.org/10.1080/0141987042000177306>
- Center for Migration Advocacy. History of Philippine Migration. Cited 27 December 2014.  
<http://centerformigrantadvocacy.com/history-of-philippine-migration/>
- Chaninat and Leeds. 2014. Thai Lawyers. Cited 12 October 2014. <http://www.thailand-lawyer.com/Thailand-work-permit.html>
- Cholewinski and Macdonald. 2007. Obstacles to the Ratification of the international Convention on the Protection of the Rights of All Migrant Workers and members of their Families: EU/EEA Perspectives. Unesco Migration Studies I.
- Colombo Process. Cited 23 December 2014.  
[http://www.colomboprocess.org/index.php?option=com\\_content&view=article&id=48](http://www.colomboprocess.org/index.php?option=com_content&view=article&id=48)
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. Cited 2 April 2014. <http://www2.ohchr.org/english/bodies/cmw/cmw.htm>
- Da Sal, J. 2014. Trafficking Case Watch. Cited 15 October 2014.  
<<http://trafficking.verafiles.org/slow-prosecution-of-human-trafficking-cases-worries-expert/>>
- De Guzman, O. 2003. Overseas Filipino Workers, Labor Circulation in Southeast Asia, and the (Mis) Management of Overseas Migration Programs. Kyoto Review of Southeast Asia. No. 16.
- Department of Foreign Affairs (DFA), Philippines. Cited 2 April 2014.

<http://www.doh.gov.ph/node/97.html>

- Douglas and Schloenhardt. 2012. *Combatting Smuggling with Regional Diplomacy: An Examination of the Bali Process*. Research Paper. University of Queensland.
- Gill, P., Stewart, K., Treasure, E., and Chadwick, B. 2008. Methods of data collection in Qualitative Research: Interviews and Focus Groups. *British Dental Journal*. 204, pp. 291-295. <https://doi.org/10.1038/bdj.2008.192>
- Go, S., 2011. The Role of Bilateral Labor and Similar Agreements in Asian Labor Migration: The Post-Crisis Context. IADBI-OECD Roundtable on Labor Migration in Asia: Recent Trends and Prospects in the Post-Crisis Context. Tokyo, Japan.
- Gonzales, JL III. 1998. *Philippine Labour Migration: Critical Dimensions on Public Policy*. (Singapore; Institute of southeast Asian Studies).
- Gonzales, S., 2007, Aug 03. Association of Southeast Asian Nations strengthens rights of migrant workers; Source: IPS]. *Noticias Financieras*, 1.
- Gonzales, S., 2011, Jul 07. Exit Clearance: an OFW's nightmare; Source: Philippine Daily Inquirer.
- Hall, A., Manajit, S., and Mai Thi, T.N.N. 2011. Migrant Workers' Rights to Social Protection in ASEAN: Case Studies of Indonesia, Philippines, Singapore and Thailand. Source: Migrant Forum in Asia and Friedrich-Ebert-Stiftung.
- Harkins, B., Samarn Laodumrongchai, Napapan Sangnate Der Kinderen and Pairin Makcharoen, 2013. *Regulating Recruitment of Migrant Workers: An Assessment of Complaint Mechanisms in Thailand*. Asian Research Center for Migration, Institute of Asian Studies. Chulalongkorn University.
- Harrel, M. and Bradley, M., 2009. *Semi-Structured Interviews and Focus Groups*. Source: RAND Corporation. ISBN 978-0-8330-4889-9.
- Imperial, G. 2004. *Understanding Philippine Labor Policies*. The Philippine Review of Economics. Volume 16. No. 2.
- International Covenant on Civil and Political Rights. Cited 4 April 2014. <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>
- International Labor Organization. *ILO Model Agreement on Temporary and Permanent Migration for Employment, including Migration of Refugees and Displaced Persons annexed to ILO Recommendation R 86 Migration for Employment Recommendation (Revised) of 1949*. Cited 4 April 2014. <http://www.ilo.org/>
- Kranrattanasuit, N. 2013. *A Proposal to Strengthen the ASEAN's Role in the Against Trafficking in Persons*. Faculty of the Washington College of Law. The American University.

- Kuruville, S. 1996. *Industrial & Labor Relations Review*; Jul 1996; 49, 4; ProQuest Central, pg. 635 <https://doi.org/10.2307/2524514>
- Mahrua, B.M. 2009. Session 4: Elaboration of an ASEAN instrument for Migrant Workers. 7th Workshop on the ASEAN Regional Mechanism for Human Rights.
- Map. 2008. No Human Being is Illegal. A report by nang lao Liang Won. Asia Society. Cited 5 April 2014. <http://asiasociety.org/no-human-being-illegal>
- Novio, E.B., 2012, Feb 25. OFW teachers find niche in Thailand; Source: Philippine Daily Inquirer.
- Office of the United Nations: High Commissioner for Human Rights (2005). The International Convention on Migrant Workers and Its Committee. Fact Sheet No. 24 (Rev. 1). United Nations. New York and Geneva.
- Onuki, H. 2007. Migration workers as political subjects: globalization-as-practices, everyday spaces, and global labour migrations. *Research Papers: Faculty of Law, Humanities, and the Arts. University of Wollongong. Refuge*, 24 (2), 125-134.
- Oelgemoller, C. 2007. *Informal Plurilateralism and Policy Laundering*. University of Sussex.
- Overseas Filipino Workers Empowerment. Cited 10 October 2014.  
<http://ofwempowerment.com/ofw-cases-s-c-decision/g-r-no-145587/>
- Philippine Constitution. Cited 5 April 2014.  
<http://www1.umn.edu/humanrts/research/Philippines/PHILIPPINE%20CONSTITUTION.pdf>
- Philippine Labor Code 1974. Cited 3 April 2014.  
<http://www1.umn.edu/humanrts/research/Philippines/PD%20442%20-%20Labor%20Code%20of%20the%20Philippines.pdf>>
- Philippine Migrant Rights Group. 2009. Written Replies to the List of Issues Relating to the Consideration of the Initial Report of the Philippines. Submitted to the UN Migrant Workers Committee for its 10th Session in Geneva.
- Philippine Overseas Employment Administration. Accessed 1 April 2014.  
[http://www.ofwguide.com/directory\\_poea.php](http://www.ofwguide.com/directory_poea.php)
- Pholphirul, P. and Rukumnuyakit, P., 2010. Economic Contribution of Migrant Workers to Thailand. School of Development Economics. National Institute of Development Administration.
- Republic Act 10022, Philippines. Cited 3 April 2014.  
<<http://www1.umn.edu/humanrts/research/Philippines/RA%2010022-%20Migrant%20Workers%20Act.pdf>>



- Rojas, H., 2009, Why MC NO. 4 will not work? Source: Center for Migrant Advocacy.
- Ruiz, R. 2011. Immigration corruption reports to be raised with Filipino president. *The National UAE*.
- Saguin, D.B. 2013. The Unsolved Problem of Human Trafficking in the Philippines. Cited 15 October 2014. < <http://bdsguing.blogspot.com.au/2013/07/the-unsolved-problem-of-human.html>>
- Schearf, D. 2012. Thailand Threatens to Deport 1 Million Illegal Migrant Workers. Cited April 2014.  
<<http://www.voanews.com/content/thailand-threatens-to-deport-one-million-illegal-migrant-workers/1564239.htm>>
- Schutt, R. 2011. Investigating the Social Work: The Process and Practice of Research. 7th Edition. University of Massachusetts Boston. ISBN 9781412999809.
- Setyawati, D., 2013. Assets or Commodities? Comparing Regulations of Placement and Protection of Migrant Workers in Indonesia and the Philippines. *Austrian Journal of South - East Asian Studies*, 6(2), pp. 264-280.
- Simon, S. 2008. ASEAN and Multilateralism: The Long, Bumpy Road to Community. *Contemporary Southeast Asia*, Vol. 3, No. 2, pp. 264-292. <https://doi.org/10.1355/CS30-2E>
- Sironi & Touzenis, 2013. Current challenges in the Implementation of the Un International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families. ISBN: 978-92-823-4685-3. European Parliament. Belgium.
- Tiglao, R., 2014, Jul 14. OFW's exit permits, unconstitutional? Source: *Philippine Daily Inquirer*.
- UN CMW, "Consideration of Reports Submitted By States Parties under Article 74 of the Convention," 1 May 2009, p. 6.
- UN Women, 2013. Managing labor Migration in ASEAN: Concerns for Women Migrant Workers. United Nations for Gender and The Empowerment of Women, ISBN 978-974-680-337-3.
- Universal Declaration on Human Rights. Geneva. 1948. Cited 5 April 2014.  
<http://www.un.org/en/documents/udhr/>
- Universal Periodic Review on Thailand, 2011. Cited 4 April 2014.  
<http://www.ohchr.org/EN/HRBodies/UPR/PAGES/THSession12.aspx>
- Valente, C., 2013, Oct 26. Asean integration in 2015 and its implications on labor; Source: *Manila Times*.
- Wadwong, T. 2014. Migrant Workers Find Heaven and Hope in Thailand. *The Nation*. Cited 2

May 2014. <http://www.nationmultimedia.com/national/Migrant-workers-find-heaven-and-hope-in-Thailand-30232636.html>

Wah, J. 2014. ACMW Is Still Drafting the ASEAN Framework Instrument on the Protection and Promotion of the Rights of Migrant Workers. ACSC/APF. Yangon, Myanmar. Cited 5 April 2014. <<http://aseanpeople.org/acmw-is-still-drafting-the-framework-on-the-protection-and-promotion-of-the-rights-of-migrant-workers/>

Wiboonchutikula, P., 2001. Small and Medium Enterprises in Thailand: Recent Trends. Source: The International Bank for Reconstruction and Development/The World Bank, Stock No. 37191. [https://doi.org/10.1007/978-1-4615-0963-9\\_12](https://doi.org/10.1007/978-1-4615-0963-9_12)

Wickramasekara, P., 2006. Labor Migration in Asia: Role of Bilateral Agreements and MOU's. ILO presentation at the JIPLT workshop on International Migration and Labour Market in Asia, Tokyo, International Migration Programme. International Labor Organization. Geneva.