

Dr. Alfredo J. Ganapin Advocacy Forum Series II

**Protection of the Rights of Migrant Workers and the Role of Trade Unions
in Labor-Sending and Receiving Countries**



Migrant Workers Joined the May Day 2005 Rally in Hongkong. (Photo: Gigi Torres, AMC-APL)

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Introduction

Overseas Filipino workers (OFWs) are organized into regional, ethnic, professional, religious, social, civic, cultural and political groupings. OFW organizations and associations are generally the same in the different countries of destination. These organizations provide OFWs the necessary support system, affiliation and belongingness that they seek in their countries of destination.

Given the broad range of activities and forms of organizations of Filipino migrant workers, what is the role of trade unions in both sending and receiving countries in upholding and protecting their rights as migrants? Are they not considered anathema to the rights of local workers in the destination countries? This forum addresses these questions and other related issues.

Opening Remarks

Tos Anonuevo, Program Coordinator, Friedrich Ebert Stiftung

On behalf of the Center for Migrant Advocacy and Friedrich Ebert Stiftung (FES), Tos Anonuevo welcomed everyone who took time to participate in the forum. As a foundation whose roots are traced to the German trade union movement and on the need to protect workers, FES was pleased to be part of the forum.

With the Philippines as one of the largest labor exporting countries in the world, it is important to address labor migration, its attendant problems and consequences, as well as challenges. This is important not only to the migrant workers themselves but also to other stakeholders such as governments, trade unions and non-governmental organizations (NGOs) in various countries.

Presently, the most prominent stakeholders in labor migration are the migrants and the NGOs. Migrant workers view the NGOs as service organizations which address their needs. The NGOs consider migrant workers as their constituency.

There is an assumption that the involvement of trade unions in relation to the migrant workers has been mainly in the form of advocacy such as issuing statements of support and solidarity. It has also been assumed that direct organizing of migrant workers is beyond the normal activities of trade unions. In the last five years, however, there has been a notable increase in the organizing of migrant workers into trade unions.

These positive developments provide a huge potential for cooperation among migrant-oriented organizations towards a more effective and responsive advocacy for migrants' rights.

Philippine Labor Migration: An Overview

Ellene Sana, Executive Director, Center for Migrant Advocacy

The National Situation: From Bad to Worse

Based on reports from the Social Weather and Pulse Asia Survey issued in May 2005 and March 3-16, 2005 respectively, 57% of Filipino households self-rated themselves as poor; 6 in 10 Filipinos believed they are worse off now than last year; and 7 in 10 believed the national quality of life has deteriorated. The unemployment rate is 11.8%, which has been increasing under the administration of President Gloria Arroyo. The President received a -33% net satisfaction rating which is the lowest recorded for a Philippine president since 1986..

What are the courses of action for the poor? In March 2005, Pulse Asia reported that 26% of poor Filipinos were “likely to look for a job in another country and 25% prayed and hoped that God will assist them. About a fifth (21%) said that a poor person is likely to steal or engage in illegal livelihood, while a tenth (12%) said that s/he is likely to join or support groups that attempt to overthrow or change the government.”

Given the prevailing state of affairs in the country, it is no wonder that we see the continued exodus of Filipinos to various destinations abroad to seek employment, greener pastures and/or peace and security for themselves and their families.

An Overview of Filipino Labor Migration

By the end of 2003, around 7.77 million overseas Filipinos were based in at least 192 countries and destinations. OFWs were estimated at 3.39 million; permanent residents and other Filipinos at 2.87 million and the undocumented overseas Filipinos at 1.51 million.

Last year, the Philippine Overseas Employment Administration (POEA) deployed 704,586 land-based and 229,002 sea-based workers for a total of 933,588 OFWs. The total figure was equivalent to almost a million jobs, which was the number of annual jobs targeted by the Arroyo government.

Filipino labor migration has a woman's face with women migrants comprising some 73% of total annual deployment since two years ago. The women migrants remain concentrated in domestic and reproductive work and the entertainment industry which are stereotyped jobs for women. Domestic and entertainment work are not covered by protective legislations in most labor-receiving countries.

OFW's Economic Contribution

The overseas Filipino workers contribute nearly US\$8 billion (8% of GDP) in annual remittances. This amount was sent only through the formal bank channels. The Central

Bank noted that remittances “make up for the shortfall in foreign direct investments, portfolio investments and even exports.” Apart from the regular remittances, migrants also send gifts, donations and contributions to their families, friends and communities in the Philippines.

Protective Mechanism for OFWs

The Philippines takes pride in being the global model in addressing the issues and concerns of OFWs at all stages of the migration cycle – from pre-departure, on-site and upon return.

The Philippines is signatory to almost all international conventions that promote human, women and migrants' rights. The latest of these conventions were ILO Conventions 97 and 143 which were signed by President Arroyo in December 2004. They now await Senate ratification. Apart from the country's international commitments, several bilateral labor and social agreements were also forged with labor receiving countries.

In terms of national legal protection for migrants, the Philippines enacted RA 8042 or the Magna Carta for Migrant Workers and Overseas Filipinos in 1995. That year, Flor Contemplacion, a Filipino domestic worker in Singapore was executed, which resulted in nationwide public outrage against the government for its ineptness and the lack of clear protective policies towards migrant workers. At the 12th Congress, in 2003, three other landmark legislations for migrants were passed, namely the Overseas Absentee Voting Law, Filipino Citizenship Reacquisition and Retention Law and the Anti-Trafficking in Women and Children Law.

In addition to national legislations that protect migrants, various government offices have been given the responsibility to address the concerns of migrant workers in the Philippines and in their countries of destination.

Ongoing Problems of OFWs

Despite the existence of legal protective mechanisms for migrant workers, problems persist affecting especially women migrants and the children and families who were left behind. Some of these problems are the following: illegal recruitment, exorbitant fees, low pay, contract violations, inhumane living conditions, verbal, physical, emotional and sexual abuse, trafficking, job insecurity, illegal termination, absence of social security benefits, family separation and breakdown, problems in social adjustment and reintegration.

Philippine labor migration for temporary or permanent periods will continue. The feminization trend will also continue, with women concentrating in mostly stereotypical jobs such as in the reproductive and entertainment work. Undocumented migration and trafficking will persist for as long as domestic conditions do not improve and immigration policies of other countries become stricter and discriminate against migrant

workers.

Due to the ageing population and low birth rates in developed countries, labor shortage is a growing concern. This situation and recent developments in various international fora provide opportunities for more aggressive lobbying and advocacy for a multilateral, gender-sensitive and rights-based approach to labor migration.

Asian Migrant Workers: Critical Issues, Strategic Responses, Practical Experiences

Rex Varona, Executive Director, Asian Migrant Centre

In Asia, there are around 20–30 million migrant workers. For the past 10 years, the Asian Migrant Center (AMC), a regional NGO, has helped Asian migrant workers, including Filipinos. Filipino migrants are not unique. While Filipinos used to be the dominant group among migrant workers in Asia, there is an increasing number of workers coming from other countries. In Malaysia, there are more than 1 million migrant workers, most of whom are Indonesians. In Thailand, most of the migrants are Burmese. In Taiwan, there are more than 250,000 Thai workers. At this time, there are 120,000 Filipino migrant workers in Hong Kong, many of whom are domestic workers. Although the Filipino migrant workers in Hong Kong constitute the biggest number of workers, there are now 90,000 Indonesian migrants in the country.

It is important for everyone to take a close look at the various facets of labor migration - not only about migration issues but also how to deal with Filipino migrants who might be forced to return home eventually. This presentation does not cover expatriates since they are less vulnerable. Instead, the presentation focuses on the service workers, factory workers and domestic workers, who are in vulnerable situations.

Realities on the Ground: Key Migrant Issues in Asia

Filipinos and other Asian migrants confront many issues in their workplaces and host countries. These include the following: labor rights and contract violations, illegal recruitment, health problems, diseases, sexual abuses, work hazards and accidents, physical and psychological abuses, death, discrimination, marginalization, loneliness, and long term social costs including the breakdown of the family.

In Hong Kong, Filipinos and other foreign domestic workers have launched campaigns against contract violations and underpayment, denial of residency status and right of abode, family reunification, lack of consultation and representation, and the two-week rule, which stipulates that a domestic worker could only stay for two weeks in Hong Kong after the end of her/his contract or after her/his termination.

Strategic Responses and Practical Experiences

Most of the interventions on behalf of migrant workers have been done by NGOs. Since the mid-80s, more than 2,000 NGOs and organizations of migrants in Hong Kong have

been formed. But many of the programs were focused on intervention services such as counseling and crisis intervention. These were necessary and important in so far as redressing violations is concerned. However, during the past five years, other forms of responses have been developed and implemented by migrant organizations under the Migrant Forum in Asia. These responses included building collective capacities of migrants, advocacy for policy changes and reforms, addressing the root causes of injustice, and building alternatives for migrants.

Self-organizing in Hong Kong is very vibrant. To date there are some 2,000 Filipino organizations in the country. The problem is the increasing number of Filipino organizations in relation to the number of migrants. If there are 50 Filipinos, 60 organizations are formed! Many of the groups are also competing with each other. Most of the organizations hold social activities like beauty contests and sports events which are not bad since they serve as coping mechanisms. However, there is a need to elevate these organizations to a certain level of class consciousness or political action.

Trade union organizing of migrants has been increasingly in the agenda of the NGOs and local trade unions. In Hong Kong, AMC and its partner organizations pioneered the organizing of migrants, especially domestic workers, into trade unions. A union composed of Filipinos and other nationalities, called the Asian Domestic Workers' Union (ADWU), has existed since 1989. In 2000, the Indonesians formed their own union. Last month, it was the Nepalese. Hopefully next month, the Thais will be creating their own trade union also.

One of the intentions of migrants in creating trade unions is to create self-representing organizations or federations of migrants. The advocacy campaign in Hong Kong can only be sustained and elevated at the policy level if the migrants speak for themselves.

Challenges in Organizing Migrants into Trade Unions.

Legal Status of Unions. The number one challenge is legal status. In Hong Kong, trade unions are recognized legally. If there are seven people in a group, they could register as a trade union. But that is in Hong Kong only. In the rest of Asia, it is not the case such as in Taiwan. In other countries like Singapore and Malaysia, a migrant is required to go through the national trade unions. It is good if the national trade union is supportive of migrants. But in several countries, the trade unions are antagonistic towards migrants. Many local workers feel that migrants are stealing their jobs or undermining their social security, which are valid concerns for local trade unions.

Visa Status of Migrants. The second challenge is the visa status of migrants. Being an officer of the union and being able to run in the union is a natural process for example in the Philippines. However, in Hong Kong, the labor department does not allow migrants to work in trade unions. If you were elected as an officer, as a president, you cannot work full time in the union because that is illegal. A migrant domestic worker cannot do any work other than what is written in her/his work contract. The Hong Kong government views them as domestic workers and their visa status cannot be changed. In addition, domestic workers in Hong Kong have only one free day, which is a Sunday. Given their limited time, it would be extremely difficult for them to run their own trade union.

Institutional Representation of Migrants. The third major challenge is migrants do not have institutional representation. They can shout on the streets and hold rallies. They are able to advocate for policy changes because of their numbers. But, ultimately, the government decides whether to meet with them or not. Migrant workers do not have collective bargaining rights. They do not sit in any formal government policy-making body. They could not vote. They are not elected into office and therefore the government can ignore their demands.

Economic Empowerment Strategies. Migrants contribute 8% of the GDP in annual remittances. The World Bank (WB) and International Monetary Fund (IMF) stated that if migrants' remittances could subsidize the budget deficits in their countries of origin and their need for Overseas Development Aid (ODA) and Foreign Direct Investments (FDI), then there is no need for developed countries to provide additional funds to poor countries. If remittances sent to Indonesia and Bangladesh help create economic stability, then let the migrants finance their countries' needs. There is the danger of misusing migrants three-fold – not giving them jobs, using the remittance to save the economy and now using them to finance development.

There can be no migrant movement unless the migrants are self-organized, especially as trade unions. The challenge lies with the trade unions. Organizing of migrants into trade unions needs to be in the agenda of the labor movement both in the host countries and countries of origin.

Migrant Work: A New Frontier for Trade Unions

Josua Mata, Secretary General, Alliance of Progressive Labor

Social Movement Unionism and Organizing of Migrant Workers

Since its formation, the Alliance of Progressive Labor (APL) believed that trade unions needed to shift its strategy in organizing workers. During the early 1990s, APL saw that the informal sector was growing much faster than formal labor. Therefore, if trade unions continued organizing only in the formal sector, they are actually setting themselves up for defeat. Hence, the APL resolved to organize all types of workers, including migrant workers.

There are trade unions which believed, even now, that it is not important to organize migrant workers. There are a number of reasons for this view. One major reason is ideological inertia, which is sometimes combined with organizational inertia. Trade unions did not know how to organize workers in the informal sector. They were not able to cope with or respond very easily to the needs of migrant workers because they were used to organizing in the traditional way, which is, recruiting regular workers, building them into trade unions, and negotiating collective bargaining agreements. The hostile attitude of local workers in some destination countries did not help at all in encouraging trade unions to respond to the issues of migrant workers.

Another major problem was the shrinking finances of trade unions due to decreasing membership. The cost of hiring an organizer in Hong Kong is equivalent to the cost of five full time organizers in the Philippines. A trade union would probably prefer to hire five organizers than spend its meager resources to support an organizer abroad.

Given the inaction of the trade unions, the migrant NGOs took up the cudgels of organizing the migrant workers.

APL's Experience in Building Social Movement Unionism in Hong Kong

APL started working in Hong Kong because of its participation in an alliance, which included the Asian Migrant Center (AMC), the Manila-based Labor Education and Research Network (LEARN) and the Hong Kong Confederation of Trade Unions (HKCFTU). This partnership was forged sometime last year during the Philippine presidential election campaign.

APL saw organizing migrant workers into trade unions as a political project. The AMC and HKCTU have always helped migrant workers to build trade unions. However, not all NGOs in Hong Kong believed in the need to transform organizations of migrants into trade unions. It was AMC, with the help of HKCTU, which started the process.

There was a need to develop a strategy for trade union organizing of migrants. This strategy entailed organizing and/or transforming the different Filipino migrant groups into a federation of trade unions, which is now called the Filipino Domestic Helpers General Union- Hong Kong (FDHGU). This is an organization that will eventually embrace the different trade unions of migrant workers, particularly domestic workers.

There was also the need to work together with other Asian trade unions, such as the Asian Domestic Workers Union (ADWU) which was envisioned as a federation composed of different migrant nationalities from Indonesia, Sri Lanka, Thailand, India and Nepal. All these groups are trying to build their own federations which eventually will be brought together under the multinational trade union confederation.

Complementing the social movement unionism efforts will be the formation and strengthening of another group, the Coalition for Migrant Rights (CMR). CMR will be composed of trade unions, NGOs as well as individual migrant rights advocates.

To provide broader protection for these migrant formations in the context of the political landscape in Hong Kong, there is a need to establish linkages and affiliations with a home-based trade union federation, the HKCTU.

APL must also ensure that the migrant trade unions have strong links in the Philippines. The migrant trade unions must understand the developments in the Philippines and be able to identify the issues that their home country needs to address. So while APL organizes the FFDTU as an affiliate of HKCTU, it is also being organized as an affiliate of APL.

Challenges for Social Movement Unions

The biggest challenge for APL is sustainability. It is very expensive to hire an organizer in Hong Kong compared to supporting labor organizers in the Philippines. APL is optimistic though that it is possible to build unions among migrant workers which will be self-sustaining in the next few years. Once the migrant workers are convinced of the need to be self-reliant and to be able to sustain themselves financially, they would be more open to pay regular dues.

The second biggest challenge is building APL's capacity to sustain the services both in the host and home countries. APL continues to build its capacity to advocate for migrants' rights and to provide services to the migrants. Building the migrant trade unions' capacity will not be an easy task because many migrant workers have relied on NGOs to advocate for them.

APL's trade union organizing experience in Hong Kong will be its stepping stone to other countries. But that is going to be probably doubly difficult because some host countries do not necessarily support or provide the kind of political climate existing in Hong Kong where migrant workers are relatively free to organize themselves. In some countries, it is illegal to organize migrant workers.

Organizing migrant workers should be part of a holistic approach to transform society. After all, trade unions are not only instruments for collective bargaining. Trade unions are instruments of collective power in order to pursue the historic role of the working class to transform society. It is in this context that trade union organizing work in Hong Kong should be linked up with development initiatives. For example, some NGOs and migrant groups in Hong Kong created a savings program, which is a good start. What is needed though is to ensure that initiatives of this nature will lead to real development. The resources provided by the migrant workers should be harnessed for real development work in the Philippines instead of remittances being spent to finance the onerous debts of previous governments, including the Marcos cronies, and to line up the pockets of corrupt politicians.

APL is not organizing migrant workers solely to set up trade unions to protect their rights and have an organization that will address their needs. In the final analysis, we build unions because we strongly believe that unions are instruments of power. One way of expressing and utilizing this power is building the labor vote among migrant workers, a concept which is not yet fully appreciated at this time.

In the Philippines, there is no labor vote yet. But there is an *Iglesia ni Kristo* (Church of Christ) vote, whereby the church identifies the candidates it supports and 90 to 100% of its members would vote for these candidates. It is imperative to start building the labor vote among migrant workers. We might even generate the labor vote abroad rather than in the Philippines, where most of the workers, especially the unemployed, are beholden to politicians. The system of *utang na loob*, or debt of gratitude, is very real.

For migrant workers, however, the situation is different, since they are not beholden to politicians. It will be difficult or impossible for politicians to buy the votes of migrant workers who have been exposed to different political systems abroad and where they've

seen more democratic processes. The migrants have experienced how good government works. They've seen government public services that really benefit the citizens. The migrant workers are the people who can actually start building or wielding their labor vote. The challenge therefore is ensuring that the capacity of migrant workers to forge a labor vote is developed as the unions are built.

Hong Kong Confederation of Trade Union's Work Among Migrant Workers

Elizabeth Tang, Chief Executive, Hong Kong Confederation of Trade Unions

The Hong Kong Confederation of Trade Unions (HKCTU) has been working with migrant workers since its formation in 1990. In 1994, the Asian Domestic Workers Union (ADWU) affiliated with HKCTU. ADWU was the first migrant workers union to become a member of HKCTU. Almost a decade later, in 2003, another migrant worker trade union affiliated with HKCTU, the Indonesian Migrant Workers Union. HKCTU works closely with its affiliate migrant trade unions in providing education and support in their advocacy campaigns.

HKCTU is an active member of a migrant workers network called the Asian Migrant Coordinating Body (AMCB) which is composed of migrant NGOs and some individual advocates. The HKCTU has been the only trade union member of the network in the past 15 years.

Since the 1990s, HKCTU's affiliate, the Construction Site Workers Union, started recruiting migrant workers in the construction industry into the unions. Presently, its members include Pakistanis and Nepalese construction workers as well as undocumented migrant workers.

Issues and Concerns

HKCTU's work with migrants is not very easy even if the federation is committed to work with them. The confederation has capacity and resource problems. One major obstacle is the language barrier as many of HKCTU's affiliates do not speak English or the other languages of the migrants. This limitation leads to a heavy workload for the few members who could speak the language of the migrant workers. Even with limited resources, many of the union materials for migrants have to be translated at least in English if not in the other languages of migrants.

Within the confederation's local affiliates, perceptions of migrant workers vary. Some sections of Hong Kong society, including local workers, think that the problems of unemployment, low wages and deteriorating working conditions are all due to the presence of migrant workers. They also believe that migrant workers are taking away the jobs of local workers. This view is based on the perception that migrant workers come to Hong Kong because they are willing to accept lower wages so they could compete better in the labor market. There is discrimination and a lot of prejudice against migrant

workers in Hong Kong like in many other countries and societies.

When HKCTU supported a campaign to increase the wages of migrant workers and for them to have equal standards as the local workers, it was heavily criticized by the people of Hong Kong. The people could not understand the reason for HKCTU's support for the migrants, and why it was sacrificing the interest of the local workers for the sake of foreign workers. Someone even came to the HKCTU office and set fire to it. The people of Hong Kong were really angry for the support extended by the federation to the migrant workers. The worsening economic situation in Hong Kong further fans this anti-migrant sentiment from some quarters of the populace, which makes the situation more difficult.

In the last five years since the handover of Hong Kong from the United Kingdom to China and since the financial crisis, the wages of local workers have dropped by about 10-20% and it is still decreasing. Unemployment rate is 5.7%. There is a strong demand to stop the entry of migrant workers into Hong Kong and to eliminate all the legal protections of migrant workers.

Challenges

Keeping HKCTU's commitment to work with migrants is becoming a challenge. Fortunately, HKCTU has policies in place that would help sustain this commitment. But these are not enough. It is not enough to have formal meetings and give speeches to HKCTU's members on the need to work with migrant workers and relate to them as equals. HKCTU realized the importance of building the emotional ties between local workers and the migrant workers.

HKCTU encourages its affiliates to conduct joint activities with migrant workers where they sit together in more informal settings. The migrant workers share the problems they faced at home, why they left their countries, and the difficulties experienced by their families. These exchanges with the local domestic workers unions are usually held during their annual membership meetings. The unions would invite each other to the meetings and to Sunday camps as well. In Hong Kong, such gatherings are not called workshops or seminars but camps. The various activities in the camps are very effective in developing friendships among the workers. There are psychological and emotional effects on the workers. Slowly, the local workers understand that they have the same problems as the migrant workers. They learn that the migrants have the same needs as the local workers in organizing themselves and in speaking out about their problems and demands. HKCTU sees these informal gatherings as more effective in raising the awareness of its local affiliates on migrant workers issues than through formal advocacy.

Likewise, the support and participation of migrant workers in HKCTU activities such as the recent May Day rally have been warmly welcomed by their local members who said, "We are the same." Doing things together concretizes the policies of HKCTU towards migrant workers. When the local and migrant workers marched together, chanted the same slogans, put forward the same positions and demands to the Hong Kong government, the feeling of being the same was very strong. It was an impressive sight.

Migrant workers also supported the campaigns and struggles of local workers. For

example, the local workers campaigned to increase their minimum wage. In Hong Kong, there is a minimum wage law for foreign workers but there is no minimum wage law for local workers. In the past two years of the campaign, migrant workers spoke in rallies to support the local workers' demand. Local and migrant workers have the capacity to support each other. This had a positive effect on the local workers who were present in those activities. They appreciated more HKCTU's position to support migrant workers.

In 2004, the International Confederation of Free Trade Unions (ICFTU) called on trade unions in the labor sending countries to assist migrants in preparing for work abroad by providing information to them. The trade unions could also pressure their governments to forge bilateral labor and social agreements with labor receiving countries. Trade unions in the receiving country have an equally important role to play in ensuring that the labor laws and policies applied to migrant workers.

Hong Kong has a very weak legal environment. Hong Kong society as a whole is very anti-labor and supports free trade. HKCTU is not as powerful and effective as it would like. But it is working to bring migrant and local workers together to build a better society for all workers, both local and overseas.

Responses

Rosalinda Baldoz, Administrator, Philippine Overseas Employment Administration (POEA) for the Department of Labor and Employment

Contending with the Legal Framework in Labor Sending Countries

When discussing migrant workers rights, we have to contend with the legal framework not just in the countries of origin but more so in the countries of destination because that is where the migrants work. Before even addressing labor laws, migrant workers have to contend with the immigration law. If a worker applies for a tourist visa but intends to work, immediately s/he will have a problem in the country of destination.

The legal framework of the host country is a big area of study. There is a need to develop capabilities and expertise on every aspect of immigration law and policy of the host countries. Efforts to launch short- or long-term organizing plans, will require knowledge and expertise in labor laws. The POEA is very concerned about the vulnerable sectors, the domestic helpers, but there is no country so far that has a national labor policy which covers domestic workers.

Legal Protection Mechanisms in the Philippines

The Philippines is a model for labor sending countries in terms of how it protects the OFWs through the entire migration cycle from pre-deployment, on-site to post-deployment. Built-in protective mechanisms are set in place at every stage of the migration cycle. It might not be adequate but as far as protective measures are concerned, these have been copied by other countries. The Philippines has been very willing to share its laws and practices with all labor sending countries. The ILO has been using the Philippine model for others to learn not only its laws but also its experiences. The Philippine government will always be present to ensure protection of its citizens whether here or abroad and most especially in industries that have grown worldwide but are not covered by international labor standards.

The Need for International Labor Standards to Settle Conflicts in Labor Laws

When conflicts arise between the Philippine laws and the laws of the host countries, these are not treated as simple labor issues. They become political issues and foreign relations issues. In these situations of conflict, the Philippines wants to use the international labor standards to settle the differences.

Multi-Parties and Institutional Representation of Migrant Workers

In many multi-partite consultations, the POEA invites the NGOs, which are known for their advocacy of migrant workers' rights not only in the Philippines but in international forums. The NGOs fill the gap for a strong migrants advocate in these forums.

Hopefully, the organizing of Filipino migrant workers that APL is undertaking could

really expand even though trade unions face constraints. In a seminar sponsored by the International Organization for Migration (IOM), ICFTU stated that it needed to strengthen its alliance with the local unions in the host or destination countries and to encourage them to include the migrant workers in their membership. It is not simple and it is a complicated matter.

Empowerment is the best strategy to protect the migrant workers. The decision to migrate and live and work in a foreign country is a test of the Filipino character. Filipinos are determined to change their lives for a better future not only for themselves but for their families and even for their country. Based on an earlier presentation, a concern was expressed that the Filipino people are losing confidence in the government to improve their situation and therefore depend on themselves. That is what crisis can really bring about. That is, people are forced to look from within themselves and find many options that could help them to be better and more empowered citizens not only of our country but also of the world.

The diaspora or exodus of Filipino workers will continue. It has ceased to be a temporary gap. It has become a permanent fixture of the Philippines' labor, economic and foreign policy. Concern for migrant workers will continue to be a very high priority for the government. The government's partnership with the private sector, trade unions and NGOs will always be indispensable.

The Role of Trade Unions on Migration Issues and International Labor Organization (ILO) Programs on Labor Migration

Ricardo Casco, National Project Coordinator for the Domestic Worker, Forced Labor and Trafficking Project, International Labor Organization (ILO) Sub-Regional Office, Manila

Background

Early this year, the ILO Sub-regional Office for Southeast Asia and the Pacific based in Manila held a high level national symposium on Global Standards in the Context of Globalization. We were privileged to invite a professor from Rotman School of Management & Center for Industrial Relations from the University of Toronto, Canada in the person of Dr. Anil Verma who presented a paper on the subject.

Allow me to take reference to relevant parts of his paper that describe the new challenges that trade unions face in the globalizing regime and how this faces up with trend of involvement of non-government organizations or NGOs.

Trade unions have historically exerted prominent influence in the development and application of labour standards. Today, there is the emergence of a vigorous debate around labour standards. The North advocates that the only way to reduce exploitation is to promote free trade while the South continues to nurture a protectionist stance.

Labour standards debate likewise becomes more complex when dealing with the whole process of labour migration or with the free service trade involving movement of natural persons or the so called Mode 4 of the General Agreement in Trade in Services.

Today there remain to be different attitudes to the promotion of labour standards under the free trade regime. An indifferent attitude is observed to prevail under the WTO. In Dr. Verma's paper, he points out that "the reach of approaches like the voluntary Corporate Codes is presently limited to the transnational sector in the consumer goods industry. Similarly, economic integration across nations also offer as venue for labor standards adoption as can be seen from the North American Free Trade Agreement. Still, this can be limiting in scope. Workers outside the coverage of these approaches, particularly workers within the domestic sector composed of, to a significant degree, services sector and those toiling in the large informal sector in the developing countries are unlikely to benefit from these.

The ILO approach uses a set of conventions, historically drawn out of ILO's advocacy of labour rights since 1920's. While the ILO has set a high moral tone for tripartite policy debate and action around the globe, the implementation of these conventions is dependent on member states. To be effective, this needs worldwide action by national and sub-national governments.

Globalization & Unions

In a conference-workshop held last April 2005 in Geneva among ILO projects worldwide dealing with the Special Action Program on Forced Labour under the Declaration, there was an assessment that trade unions are facing a tall challenge and enormous work inhibiting them from assuming greater role for the informal sector and marginalized groups like migrant workers.

Verma cited that economic liberalization has weakened union power; sectoral and demographic shifts-such as the expansion of the informal service sector in many developing countries-have made it harder to recruit new members. Unions have declined or stagnated in some countries and union coverage in developing countries remains very low.

In the context of globalization, unions are seen as representing particularistic interests. Being membership based, their attention is limited to their bonafide members within a highly structured set up. Post-modern unions are primarily workplace and collective bargaining-oriented organizations. They are fee-based organizations with well-defined constituency and accountability.

Globalization and NGOs

NGOs have grown rapidly in the last 25 years. They are active in many areas of labour and workplace rights, Their reach into the informal sector is impressive. They have taken advantage of their extensive connections with the community.

Unions are surprised by NGO success in labour rights. Mostly founded and run by

intellectual activists, there is no single clearly defined constituency. The NGOs strive to have multi-lateral, multi-layered accountability and generally, are not membership organizations. They have a more fluid structure and are funded by grants and contracts.

Dilemma: Competition or Collaboration

There is probably wisdom to keep their difference with the constructive level of competition that can actually mean complementation. Each can learn from each other's strengths.

NGOs are getting more and more attention from international agencies, governments and employers, particularly on development-oriented projects in the informal sector. Trade unions to a certain extent are late-comers in the informal sector and have, in many occasions, been reluctant coach to NGOs.

In ILO's Regional Project on Domestic Worker, role dilemma has been observed among trade unions in the engagement of their support for the rights and welfare of domestic workers being employers of this type of workers themselves. The NGO's have kept representation for the domestic workers consistently.

Unions and NGOs have essentially the same strategic role-worker welfare. This is the driving force for collaboration. Nowadays, there is the emergence of labour-oriented NGOs where the Philippines has shown stark example.

To do nothing with old-fashioned rivalry would mean continuing trend in weakening trade union role as well as a redundant, crowded NGO market. Constituent or clientele workers will be confused and policy influence could be disintegrated. The efforts to survive the competition could likely lead to wastages where less resources would be made available to direct to worker issues.

Competition through emulation would be more constructive. Already, there is an emerging behavior among unions to put up their in-house NGOs to exploit the field of resources that normally go to the NGOs. NGOs likewise begin to form in-house unions or worker organizations wherever conditions are ripe. In the Philippines, the Visayan Forum Foundation, an NGO work for the interest of domestic workers in the local market, among other clientele, has helped put up SUMAPI, a domestic worker organization and is now preparing to make them independent, courting the role of trade unions to build its capacity or potential to eventually become a union.

Collaboration between unions and NGOs in the Philippines is very promising. A short-term approach is to get unions to focus on the large and formal sector while the NGOs can focus on the small and informal sector. However, in the long-run this may not be sustained as both organizations reach out to the unorganized and the unprotected..

A more active collaboration could be undertaken by engaging formal alliances by sector or employer types. Exchange of information, joint identification of priorities, joint campaigns, joint projects and coordinated action at the work place, community and political levels are some of the things that can be done. The collaboration of unions in

high wage countries with NGOs in developing countries also promises a constructive relationship.

Post-International Labor Conference (ILC) 2004 ILO Programmes on Migration

During the ILC 2005 this month, the Governing Body has decided to hold the Tripartite Meeting of Experts on the ILO Multilateral Framework on Labour Migration in Geneva on 22-24 November 2005. This is in line with the resolution during the 92nd session of the ILC in June 2004 that the Governing Body shall periodically review the progress made in implementing the conclusions and plan of action on a fair deal for migrant workers in a global economy. This upcoming meeting in November shall be convened to evaluate the suitability of the guidelines on best practices for inclusion in a draft non-binding multilateral framework for a rights-based approach to labour migration. The Governing Body also agreed that the Meeting should be held before the guidelines were presented to it.

On November 2004, the Governing Body decided reviewed the progress made in the implementation of ILO strategy to give effect to the ILC 2004 resolution concerning a fair deal for migrant workers in the global economy. These include:

1. Development of a non-binding multilateral framework for rights-based approach to labour migration.

The conclusions of the ILC 2004 were brought by a briefing by the Director General to the attention of the Geneva Migration group (informal group of heads of agencies dealing with migration-UNHCR, UNCTAD, UNHCHR, IOM and the UN Office on Drugs and Crime.)

ILO has likewise been documenting best practice models with IOM, European Commission and the Council of Europe.

An ILO-wide review of ongoing programmes and activities on migration was done to identify the relevant framework elements.

The ILO introduced technical cooperation projects following the forced labour dimension of trafficking. The Philippines benefits from the regional project on domestic workers, along with Indonesia.

2. Wider application of international labour standards and other relevant instruments.

The ILO provided attention to the interest of 14 member States to ratify Convention Nos. 97 or 143 by offering technical advice on legislation, organizing tripartite seminars and disseminating information. This was done in Sri-Lanka, Moldova, Ukraine, Albania, among few others. The Philippines has finished its own before ILC 2004.

3. Capacity-building, awareness-raising and technical assistance

The ILO launched the managing labour migration as an instrument of development project, covering the countries in East, North and West Africa.

Together with the EC, ILO carried out a project to promote equality in diversity and integration in Europe.

Capability-building in managing migration was undertaken with support from South Korea for the Mekong countries, together with the development of a training manual.

A workshop was undertaken for Moscow to implement amnesty and regularization programme that would benefit 5 million irregular migrants.

4. Strengthening social dialogue

Resources for 2006-07 have included a programme for strengthening social dialogue on migration policy.

5. Improving the information and knowledge-base on global trends in labour migration, conditions of migrant workers and effective measures to protect their rights.

ILO developed and published a comprehensive manual on migration statistics and launched a website of best practices and models.

Open Forum

Relationship between trade unions in the Philippines and migrant workers in Hong Kong

Rex Varona: There is a five party agreement among the Asian Migrant Centre, Alliance of Progressive Labor, Labor Education and Research Network, Filipino Domestic Helpers General Union Hong Kong and the Hong Kong Confederation of Trade Unions, to educate, organize, develop migrant workers trade unions, recruit and expand their membership, and advocate for their issues. The migrants and trade unions in Hong Kong have a long-standing agreement on issues, including the following:

- Repeal of Hong Kong's policies that are discriminatory, anti-migrant and anti-women
- Repeal of dual policies - Hong Kong has a good legal protection mechanism for migrant workers but its policies are more liberal towards professionals and expatriates. For example, after seven years, non-domestic migrant workers/foreign workers can apply for residency status, bring their family, move to another job category, choose an employer, and open business establishments. These privileges are not applicable to migrant domestic workers. Under the New Conditions of Stay, domestic workers are allowed to stay for two weeks once their contracts expire or they are terminated. Even if a domestic worker has been in

Hong Kong for 20 years, s/he will remain a domestic worker and would not be allowed to find another employment.

- On labor contracts –how to address violation of work contracts
- Broader framework to eliminate discrimination on the basis of class and gender. For example, every year wages of migrant workers are reviewed and the government imposed a quota.

We are united on the following issues: basic labor laws, minimum wage and protection of women's rights.

Elizabeth Tang: Local trade unions do not see themselves setting the migrants agenda. They lend support to migrant workers campaigns and jointly organize activities. An example is the campaign on the issue of underpayment of Indonesian migrant workers, who did not receive the minimum wage.

Last year, HKCTU and the Indonesian Migrant Workers Union jointly submitted a complaint to the ILO and were able to draw the attention of the international community. They also held dialogues with the Hong Kong government in order to find ways and means to punish employers who undercut the wages of Indonesian migrant workers. As a result, the Hong Kong government sent a delegation to Jakarta to relay their concerns to the Indonesian government and strongly advised the Indonesian recruiters to make sure that they do not exploit their fellow citizens. It was noted that there was a decrease in the number of cases of underpayment after the campaign.

Right to strike as it applies to migrant workers in Hong Kong

Elizabeth Tang: There is no legal protection for workers who join strikes. Even local workers can be dismissed. Hence, workers who go on strike take a high risk. For migrant workers and domestic workers, they have a bigger problem because they are individually employed. To organize a strike would be very, very difficult. So far, migrant workers have not yet gone on strike in Hong Kong. We do not encourage our members who are domestic workers to resort to this kind of industrial action. Even local domestic workers have never resorted to this method. But there was the case of Nepalese migrant workers in the transport industry who were not paid their wages. We assisted them in organizing a strike and it was successful. It was brief and the employers immediately rectified the situation. All the Nepalese workers were able to get their back wages right away.

Rex Varona: Migrant workers, many of whom were Filipinos, undertook the daunting task of building the airport and connecting Hong Kong's two major islands. They staged a walkout once because they were not paid properly.

In Hong Kong, there is a law that allows workers to join unions. Union members can file a case of union discrimination if they are prohibited from joining the unions' activities. This is a good law. We are not sure though if this covers strikes. The problem is that the employer would find other reasons for dismissing the migrant worker. For example, the employer would say that s/he is lazy or disrespectful. Once the employer cites these

reasons, nobody could prove it otherwise. We could not prove that the employer discriminated against the workers.

It is already a breakthrough that domestic workers are able to unionize even if they are individually employed. The next breakthrough that we look forward to is for the union to represent their members. For example, at present, the Hong Kong government can change the wages in contracts, which is standard for all nationalities of migrant workers. If the Hong Kong government wants to change the wages, it has to negotiate with the unions. Another example is when an employer abuses a domestic worker. The employer will have to fight the entire union. Right now, the victim files a complaint against the employer. What we want to see is the union filing a case on behalf of the worker. The next breakthrough is when they can call a strike or a labor mass action.

Added value of trade unions vis-à-vis other forms of migrant worker organizing

Josua Mata: The trade unions did not start as formal organizations. One hundred years ago, when capitalism was emerging, there were no regular workers. Everyone was irregular. The results of years of struggle of the trade union movement are what we see now.

What we are doing now with the domestic workers is not reinventing trade unionism. The concept of social movement organizing is not reinventing trade unionism. We see it as going back to the roots of trade unionism. When the Philippine labor movement held its first May 1 rally one hundred and two years ago in Malacanang, there were 100,000 workers who joined that rally. But the formal workers at that time who worked in the factories could not be more than 50,000. More than half of those workers who joined were what we call now as casuals, irregulars or informal sector workers.

Why should we encourage trade unionism among migrant workers who have been self organizing along ethnic lines, professions, religion and the like? Why do we need to transform them into trade unions? As trade unionists, we want them to be seen as real workers. As real workers, they should be covered by formal legislations and laws - rights that are enshrined not only in international conventions but also in each country's social legislations.

Regarding irregular migrants, it does not mean that we can solve all our problems by simply transforming and building trade unions among migrant workers. Why? Trade unions and any form of organization at this time cannot easily deal with the problem of undocumented migrant workers. We need a union of documented migrant workers in that particular country in order to push for legislations that would allow undocumented migrant workers to be able to gain some modicum of legal protection. The strategy is to help build unions of migrant workers - unions that see themselves not only as collective bargaining agents which may happen later on, but as instruments and as activists for societal change not only in the countries where they work but also in their home country.

Rex Varona: There are migrant trade unions in Japan, Korea, and Thailand that do organize undocumented workers. That has been a breakthrough. Why unionize them?

The immediate answer is to break the ideological inertia as Josua was saying. Unless the migrants can conceive themselves as a labor force, I think we waste their energy. We waste their capacities. For as long as migrants see themselves as clients to be serviced by NGOs, this is disempowering to the migrants. The migrants' grievances are redressed but it is important to transform this into political power. If this is combined with economic power, then you can just imagine the power of the migrant vote. Thus, the distinction between an association and a trade union.

It is not a question of one form of migrants' organization over the other. A trade union though is the primary agent that can carry the political agenda because of its institutional personality and representation-capability. For example, in Hong Kong, the trade unions can demand to sit in certain bodies or negotiate with certain agencies of government. They can file complaints under Article 34 of the ILO. Because of these kinds of channels, it is a waste of capacity if we do not unionize the migrants. The question is, why are we only doing it now after 30 years? The musicians' union in Hong Kong is 50 years old. However, it was not able to transform the organization into a political union. It used to be a strong advocate for migrants rights but it has been transformed into a social organization. The missing link is the involvement of trade unions in labor sending and receiving countries. The key is the triangulation of the migrant workers, the trade unions in the host countries and the trade unions in the labor sending countries.

Elizabeth Tang: It is not correct to say that trade unions only organize workers in the formal sector with regular workers. This is already changing. HKCTU has been organizing self-employed workers especially those in the construction and in the transport industries. They have affiliates whose members are local domestic workers. Ninety percent (90%) of the membership work with 4-5 families daily. An example would be blind people who work as masseurs/masseuse.

Ric Casco: Part of the institutional character of organizing migrants into unions is that they are the ones recognized in the tripartite industrial peace council structure where, increasingly, policies even on migration are being addressed. In the informal sector, you can always see the employer-employee relation. This is why I do believe that part of the labor movement history started from that level of the relationship between a worker and an employer.

Participant: In Brussels, the two biggest trade unions allowed undocumented Filipinos to become members. When some of the Filipino workers were about to be deported, they were protected by the unions. It was a model that started in Italy and was recognized by ICFTU.

Gender issues within migrant workers trade unions

Josua Mata: We have been working in Hong Kong since March 2005. The executive council of APL identified specific requirements on the hiring of an organizer in Hong Kong. Two of the requirements were that the organizer must be a woman and she should have worked in the trade union and women's movements. From the very start, we were aware that trade union organizing in general, and in Hong Kong in particular, should integrate the gender perspective.

Rex Varona: We were asked whether trade union organizing is part of a patriarchal structure. Since most migrants in the services sector are women, why impose a patriarchal structure? A union is supposed to be gender-neutral. It depends on the people inside.

Gender and violence and abuses against women are high on the agenda of migrant workers. For example, until the mid-90s, Filipinos in Hong Kong were at the forefront in terms of political analysis among domestic workers, unions and groups. Now, the Indonesians are more politicized, perhaps because of the intensity of the abuses against them. One of their great achievements was forcing the Indonesian consulate to open its offices on weekends. Indonesian society in general is very patriarchal. Many of the consular staff were men and they could not be challenged. But the leaders of the Indonesian Migrant Workers Union were able to do so. Their leaders were even invited to the Indonesian Parliament to speak about their own situation.

Synthesis and Closing Remarks

Marlon Quesada, Board Member, Center for Migrant Advocacy

Labor migration is growing and there is a greater need to address issues of migrant workers both in the sending and receiving countries. Recent efforts in organizing migrant workers into trade unions are a very positive development. Two different organizing approaches have been used. One approach is for unionists in the host countries to recruit migrant workers into their own unions. This approach is very strong in northern and western European countries. The migrants enjoy all the privileges and benefits of workers in such countries. For example, a migrant worker in Finland, regardless of employment, automatically becomes a member of a union. The union addresses immediately the concerns of the migrant workers.

The other approach is for migrant workers to organize their own unions because, in some host countries, migrant workers are not allowed to be union members. For example in Germany, the construction building and agricultural workers union initiated and facilitated the formation of a union for migrant construction workers. It is called the European Migrant Workers Union. Most of the migrant workers are from Eastern Europe. The migrant workers' union could directly negotiate their contracts with employers and have their own collective bargaining agreements.

In Korea, there is a new migrant workers' union called the Migrant Workers Trade Union or MTU. However, with the government being anti-migrant and anti-labor, MTU's president was arrested recently.

Organizing migrant workers into trade unions is one of the best approaches in uniting and consolidating them. Migrant workers in Hong Kong are organized according to social clubs, ethnic or regional groupings, religious affiliations and others. But the unions could consolidate all of the workers based on a single agenda which includes workers rights and better working conditions. Trade unions provide the structure to strengthen the advocacy efforts of migrant workers.

Organizing migrant workers into trade unions also strengthens solidarity and collaboration among trade unions themselves. For example, in Hong Kong, HKCTU and APL work closely together and share experiences, resources and the like. It also strengthens solidarity and collaboration between migrant NGOs. An example is the partnership between the Asian Migrant Centre (AMC) and the Center for Migrant Advocacy (CMA) in the Philippines. Another example is the collaboration among AMC, CMA and LEARN.

Organizing migrants into trade unions strengthens the solidarity between trade unions and NGOs. Trade union organizing among migrant workers is the classic convergence of NGOs and trade unions. They help each other to strengthen the organizations of migrant workers in different countries. This initiative also helps decrease racial discrimination between nationalities.

There are challenges in organizing migrant workers into trade unions. First, there is a

need to develop the current work in this area. This is a work in progress and as such there is no model to speak of. Because the experience and context vary from country to country, there is a need to study strategies and ways of organizing migrant workers into trade unions and to develop models. There is also a need to initiate similar efforts in other countries.

What is the role of trade unions in migrants' rights and protection? Trade union organizing is another approach in protecting the interest of migrant workers. In the end, it is the combination of solidarity and a united, consolidated organization which could address the problems of migrant workers not only in the Philippines but all over the world.

PROGRAM

Dr. Alfred J. Ganapin Advocacy Forum Series
Protection of the Rights of Migrant Workers
and the Role of Trade Unions in Labor-Sending and Receiving Countries
June 24, 2005
UP Balay Kalinaw, Quezon City

The forum was organized:

- To provide a venue for discussion among migrants workers, NGO advocates and trade unionists on migrant workers' protection and the role of trade unions
- To discuss other social organizations for migrant workers, including trade unions, and for migrant workers and NGOs to have a basic understanding of the work of trade unions
- To provide information to trade unionists on the situation of migrant workers and the importance of their support in upholding the rights of migrant workers

Opening Remarks

Tos Anonuevo, Program Coordinator, Friedrich Ebert Stiftung

Panel Presentations

Philippine Labor Migration: An Overview

Ellene Sana, Executive Director, Center for Migrant Advocacy

Asian Migrant Workers: Critical Issues, Strategic Responses, Practical Experiences \

Rex Varona., Executive Director, Asian Migrant Centre

Migrant Worker: A New Frontier for Trade Unions

Josua Mata, Secretary General, Alliance of Progressive Labor

Hong Kong Confederation of Trade Unions' Work Among Migrant Workers

Elizabeth Tang, Chief Executive, Hong Kong Confederation of Trade Unions

Responses

Rosalinda Baldoz, POEA Administrator, Department of Labor and Employment

Ricardo Casco, National Project Coordinator for the Domestic Worker, Forced Labor and Trafficking Project, International Labor Organization Sub-Regional Office, Manila

Open Forum

Mary Lou Alcid, OFW Rights Advocate, Forum Moderator

Synthesis and Closing Remarks

Marlon Quesada, Board Member, Center for Migrant Advocacy

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4. Recommendations for Future Action By Trade Unions

Today, trade unions all over the world are at a crossroads as national boundaries disappear and the world economy continues to be globalized. This poses both a threat and a challenge to the trade unions as some of the traditional union tools for the protection of the rights of migrant workers are no longer effective. This globalization is, to a large extent, due to the rapid increase in trans-border movements of people, trade and jobs. As mentioned in Section 1, this migratory trend is likely to continue unabated, without any foreseeable decline. According to a recent United Nations survey on international migration policies, “countries are not likely to bring about a halt in future migration, neither are they likely to increase their intake dramatically” (United Nations, No. E.82. XIII.4). The problems of migrant workers will, therefore, in our view, remain a national and international issue of concern to trade unions for the coming decades as they have been in the past. Hence the need for greater attention by the unions to the problems of migrant workers at the national level, and the need to explore new ways and means of forging stronger solidarity in favour of migrant workers at the international level.

Considered as the cheapest source of labour to sharpen competition on the labour market, migrant workers are easily transferable from one region to another, and easier to manipulate, exploit and abuse than the labour force of the host country. In Spain, the arid coastal plain of Almeria earns about US\$500 million per year, supplying northern Europe with its winter fruits and vegetables. This wealth is created on the backs of 4,000 immigrant workers, who work in stifling heat under plastic sheets, picking aubergines, peppers and melons, living in warehouses, ten or more to a room, and sleeping on mattresses on concrete floors (Stalker, 1992). Similar cases abound in many other parts of the world.

Many unions stand firmly against the abuse of migrant workers. At its 25th World Congress held in Helsinki, Finland, in 1993, the Public Services International (PSI) called for an end to the abuses being committed against migrant workers, including the “unfair treatment, the social and political discrimination they experience and the deprivation of their fundamental rights as workers and human beings in their countries of employment.” It appealed to all PSI affiliates to make their best efforts to extend assistance to migrant workers and to help protect their rights and well-being. On the other hand, not only do national extremists make the presence of migrant workers in their countries a national issue, but they and their political parties support the repatriation of migrant workers to their home countries. Unfortunately, these political views are increasing in popularity in many European countries, including some that used to be known for their liberal and tolerant views. The rise of xenophobia and racism in Europe adds a new challenge to trade unions in these countries, and further calls for a wide range of efforts and vision on

the part of the workers of the world to provide a programme of action and assistance relevant to the needs of these workers, at both the national and the international levels.

Having analyzed the problems facing trade unions in Section 3, this section attempts to identify what is expected of trade unions for the protection of the rights of migrant workers and enhancement of their welfare.

Before going into details, however, it will be out of place to mention briefly three generally prevalent fallacious notions about migrant workers which trade unions can do much to deflate:

-- the assumption that the arrival of more people will somehow deny job opportunities to the nationals – in reality, immigrants commonly take jobs which national workers shun;

-- the assumption that immigrants depress wage levels – immigrants in fact constitute only a small proportion of the total population and it would be difficult to detect a significant influence on the national wage structure;

-- the assumption that immigrants place an intolerable burden on the public purse owing to their demands for social services – this argument totally disregards their contribution to the national economy.

Some of the functions generally expected of the trade unions for the protection of migrant workers can be categorized into three groups. This is primarily based on the findings of the questionnaires circulated among the trade unions of the 22 selected countries and among international and regional trade union organizations, and further corroborated by other recent publications and personal interviews with trade union representatives. The recommended areas for action are the membership level, the national level and the international level.

(a) Migrant-sending countries

--Membership level

Setting up a special cell/ unit/ department to deal with matters relating to migrant workers

From responses to the questionnaires it is evident that although most of the trade unions deal with migrant workers' issues, they do not have a special unit with a set of staff exclusively for this purpose. None of the responses to the question as to whether organizations have any mechanism to take care of migrant workers made reference to any specific system existing for this purpose. The Union Nationale des Syndicats Autonomes du Senegal (UNSA) referred to generally providing assistance to migrant workers for better services within and outside the country, while the AFL-CIO of the United States stated that the organization is a federation and that the affiliated unions are concerned directly with the interests of migrant workers. The Confederation des Syndicats Chretiens de la Suisse, however, replied that the Confederation has an office that is responsible for monitoring the political impact of migration, and that their research

department has an office that deals with migrant workers and their problems.

Judging from the responses to the questionnaires it does not seem that there are enough qualified personnel to take care of migrant workers' interest, nor do any of the office-bearers, except in one country, come from a migrant background. In future, it is recommended that this lacuna be overcome and that considerable attention be given to the training and number of staff members dealing with migrant workers in the unions.

Maintaining a sound database on membership

When asked about steps to increase and retain membership, the responses were again unspecific. The Federation of Korean Trade Unions expressed a radical view in that it mentioned that the trade unions of the Republic of Korea do not maintain links with national workers who are working overseas, while the *Union Nationale des Syndicats Autonomes du Senegal (UNSAS)* said that it maintains links with its membership through the Department of Foreign Affairs and through organizations in the countries of employment. The *All Pakistan Federation of Trade Unions* mentioned that it maintains contact with migrant workers through the trade unions of migrant-receiving countries and seeks advice on various relevant issues from them. The *National Confederation of Dominican Workers* said that permanent contacts with migrant workers are maintained through organizing programmes and educational courses. The setting up of a databank could provide a readily available list of departing and returning workers who are members of trade unions, and this would facilitate union liaison with governments as well as with other agencies, including networking with trade unions in other countries. This facility would, in turn, enable trade unions to monitor and supervise the affairs of migrant workers, from recruitment to final return, and to provide information on every aspect of migrant members' activities.

Establishing a welfare fund for migrant workers and their families

Replies to the question regarding a welfare fund for implementing activities for the benefits of the families of migrant workers revealed that none of the trade unions has any kind of fund. Some trade unions, such as the *All Ceylon Federation of Free Trade Unions* and the *National Federation of Dominican Workers*, responded positively regarding the existence of a special budget for migrant workers however, no further details were provided.

This leaves open the question as to whether it is feasible to set up a welfare fund to supplement the activities of unions on behalf of migrant workers and their families. In this connection, the mechanism of financing the fund is important: would it be dependent solely on workers' contributions or receive funds from other sources such as non-government institutions and donor agencies from friendly countries? Would it be maintained at the union or the national level? The objectives and targets for implementation need to be worked out carefully prior to the launching of such schemes.

Promoting the education of children and other family members

Although 50 percent of the trade unions confirmed, through their responses to the

questionnaires, that they do encourage and assist in the education of migrant workers' children, it is not clear whether these are independent efforts or the result of a general policy of the national government which has influenced the trade unions. It will be in the interests of migrant workers' families not only that education should be provided for the children but also that schemes involving other members should be established. Family members would then have some gainful occupation during long periods of separation (in the case of migrant-sending countries) or while the migrant worker is at his/her job (in the case of migrant-receiving countries). In response to the query as to whether any advice is provided on the investment of remittances, only 45% of the trade unions responded positively (see table 1). Even then no further details were enumerated – excepting provision of training for family members to help them set up income-generating projects.

Encouraging the regular flow of remittances

This is a neglected area: none of the responses to the questionnaires confirmed any detailed activity related to remittance or their investment. However, the Confederation Nationale des Travailleurs du Senegal (CNTS) mentioned that they would like to adopt a specific policy of monitoring remittances sent by migrant workers to ensure regular flows for their families' maintenance during their absence. The gradual trickling of remittances and the attendant uncertainties that are frequently experienced by migrant workers' families are well-known. Trade unions could develop useful services in this area to improve the welfare of migrant workers' families. Hence again, the *modus operandi* has to be worked out: should any committee or other organizations be constituted solely of trade union representatives or should members of migrant workers' families be involved in order to develop a more general awareness of the welfare issues. The service would include advice regarding the gainful investment of remittances for the families' benefit, or collectively for the benefit of migrant workers, as is being done by the non-governmental agencies and banks in some parts of the world.

--National level

Improving access to national legislation on migrant workers

On the question relating to accessibility to legislative documents on all relevant issues regarding migrant workers, most of the trade unions preferred to remain silent. However, the National Confederation of Dominican Workers, the Federation of Korean Trade Unions, the Federation of Independent Trade Unions of Russia, FITUR, the Ceylon Workers' Congress and some others confirmed the lack of access to national legislation is a hindrance in formulating an action plan for migrant workers. Given the significance of the issue, more work on it needs to be done in the future. In this connection, a start has been made by the ILO, which has published an inventory of national legislation concerning migrant workers for the 22 countries covered by the Interdepartmental Project on Migrant Workers.

Maintaining close liaison with government

In order to protect the rights of migrant workers, trade unions have to work with several

other organizations – NGOs, churches and other social service institutions. All function at the grass-roots level with the object of ensuring that migrant workers are not discriminated against. However, the responses to the questionnaires revealed that there is little coordination among these organizations, and this often retards progress towards the desired goals. In the recruitment of migrant workers, for instance, trade unions, according to the responses, have no involvement in the granting or renewal of recruiting agencies licenses, or in the formulation of rules relating to the recruitment of migrant workers. Relationships between trade unions are primarily based on exchange of correspondence (90%) and only 10 percent of responses mentioned exchange of personnel and other channels of communication. Coordination with other NGOs and institutions, the lack of which is often a handicap that needs to be improved and an effective networking system to be evolved in the interest of all concerned.

Negotiating for internationally acceptable employment contract for migrant workers

Trade unions should play their part in formulating the terms and conditions contained in employment contracts for migrant workers to ensure full protection of their rights. These contracts should comply with all acceptable national and international labour standards. The question on trade union participation in the drafting of contracts drew a very negative response. This is one of the main areas where the trade unions can most effectively assist migrant workers.

Representing migrant workers at all for a at the national level

As confirmed by responses to the questionnaires, representation by trade unions on relevant government bodies is inadequate; as a result their ability to influence the government is limited. An increase in trade union representation could ensure that the voice of migrant workers is heard at all appropriate stages in the formulation of legislation.

Assisting returnee migrants

Migrant workers are “rootless” on their return to their own home country after a lapse of several years and they face problems of integration into their own society. Some of the trade unions of migrant-sending countries confirmed that they do have a definite policy to assist returnee migrants – the All Ceylon Federation of Free Trade Unions, the Union Marocaine du Travail, the All Pakistan Federation of Free Trade Unions and the Unione Nazionale des Syndicats Autonomes du Senegal (UNSAS). Apart from the Confederation Nationale des Travailleurs du Senegal (CNTS), which indicated that land must be allotted to returning migrant workers for rehabilitation purposes, none of the other unions could provide any specific details. A more concrete policy is required to facilitate a quick rehabilitation process for returnees.

Liaising between trade unions of migrant-sending and migrant-receiving countries needs to be strengthened as this can be most vital channel of information and support for the protection of the rights of migrant workers. In the present age of information networking, maintenance of a continuous flow of information between the trade unions of migrant-sending and migrant-receiving countries is imperative. Regular close consultation

between the two groups of trade unions would go a long way to improve the working and living conditions of migrant workers and to enhance their welfare and that of their families.

The majority of responses to the questionnaires revealed that the trade unions of migrant-sending and migrant-receiving countries are dependent on correspondence for the exchange of information, Though some replies – from the All Ceylon Federation of Free Trade Unions, the Union Marocaine du Travail, the General Federation of Portuguese Workers – Intersindical and the Pakistan Labour Federation – confirmed mutual representation on issues relating to cooperation in training and improving the status of migrant workers, most of the trade unions regretted that there is no cooperation at present. On issues relating to the entry or departure of migrant workers, the Federation of Korean Trade Unions, the Pakistan National Federation of Trade Unions and SOLIDARNOSC, Poland Indicated that they were not able to provide the requisite support services owing inadequate coordination. On the other hand, the Ceylon Workers' Congress, the Union Marocaine du Travail and other confirmed provision of better support services for migrant workers because of closer coordination between the unions of migrant-sending and migrant-receiving countries. Several unions left questions on this issue unanswered. What seems to be required is planned collaboration between trade unions of migrant-sending and migrant-receiving countries in order to provide the foundation of all future assistance to migrant workers, beginning with recruitment and ending with return upon completion of contract.

(b) Migrant-receiving countries

-- Membership level

Arranging for the reception of new entrants to facilitate their unionization and integration

When a person migrates to a new country he/she is alone. Any kind of assistance facilitating integration means a lot. Except for the All Ceylon Federation of Free Trade Unions, however, the majority of respondents failed to confirm the organizations of reception centres for this purpose, This is the first step towards integration; the opening of reception centres by trade unions to meet incoming migrant workers and inform them about the situation in the host country can be a very concrete step towards the unionization and integration of migrant workers into the host countries' political, cultural, social and economic life.

Promoting equal opportunities and elimination of discrimination at the workplace

Though the trade unions appear to be very active in areas such as elimination of discrimination, equality of pay and wage fixing (nearly 100% affirmative responses were received from the unions of migrant-receiving countries), there were certain areas where the responses were not encouraging. The responses to questions regarding provision of special programmes for meeting contractual obligations, protection against unlawful dismissal, etc., were mixed, ranging from a weak majority of positive answers to evasive replies with abstentions. Greater efforts on the part of the trade unions are called for here.

None of the unions from migrant-receiving countries except the All Ceylon federation of Free Trade Unions and the National Confederation of Dominican Workers confirmed the existence of any established system or mechanism in their organization to take care of the specific rights and problems of migrant workers.

Promoting training (vocational and skills upgrading) and education services for migrant workers

Providing education and appropriate training courses for migrant workers should be a major item in trade union programmes, since this is the main vehicle for assisting the process of integration of migrant workers into the society of the host country. Needs vary from one group to another, but in general the programmes should include a broad outline of the social life of the country of employment, an introduction to trade unionism and a fairly extensive treatment of migrant workers' rights. In most cases, language training will be an important element in the programmes. The responses to the questionnaires revealed that the programmes for skills training currently offered by the trade unions of migrant-receiving countries are not adequate. The trade unions of migrant-receiving countries should review their contribution in this important area of action. This is a very significant area as equality of treatment is often denied to migrant workers on the ground of lack of requisite education or training, and this results in discriminatory attitudes towards them.

Ensuring desirable living conditions and promoting cultural identity for migrant workers

In order to facilitate the stay of migrant workers in the host countries, the trade unions of migrant-receiving countries are involved in assisting with the provision of several facilities such as housing and children's education (see table 1.) However, questions on the provision of legal assistance, counseling and regularization of status elicited negative responses from most unions. Trade unions could achieve a good deal in their efforts to organize the migrant workers by ensuring that their living conditions are adequate and thereby forging an effective link between the living and working conditions of migrant workers.

In the area of respecting the religious freedom of migrant workers and helping them to retain their cultural identity there remains much to be done. Apart from the All Ceylon Federation of Free Trade Unions, the Federation of South African Labour Unions (FEDSAL) and the Confederation of Syndicale Gabonaise (COSYGA), none of the trade unions from migrant-receiving countries responded in the affirmative to the question about whether they support migrant workers in the observance of their religious beliefs and practices. On the issue of helping migrant workers to retain their cultural identity, only the Congress of South African Trade Unions (COSATU) and the General Confederation of Portuguese Workers – Intersindical answered positively. But some unions preferred not to answer on this issue. The cultural dimension needs to be addressed by the unions in their efforts to represent a multicultural membership.

Educating national workers about the contribution of migrant workers to the economic development of their host countries

Responses were largely positive regarding the attitude of trade unions towards the contribution made by migrant workers to the economic development of the host countries. However, the AFL-CIO of the United States, the General Confederation of Workers of Argentina and SOLIDARNOSC, Poland believed that the contributions of migrant workers to the national economy were negative. Moreover, while the majority of answers confirmed that migrant workers do not add to social problems (see table 2), 64 percent of the responses argued that the return of migrant workers to their home countries would improve the employment situation in their respective states. This is contradictory to the earlier statements of the majority of unions (see table 2), which emphasized that the presence of migrant workers does not lead to an aggravation of national unemployment.

-- National level

Improving access to national regulations on migrant workers

The answers received from the unions of both migrant-sending and migrant-receiving countries to questions on the accessibility of national legislation on migrant workers revealed a general evasiveness. Most of the trade unions expressed no reaction. Unless the provisions of national legislations are covered in trade unions' educational programmes, for wider dissemination, it will be difficult for unions to take up the cause of migrant workers and defend their rights effectively.

Maintaining close liaison with government (representing migrant workers in all government offices dealing with relevant issues)

Though unions are consulted occasionally they are not adequately represented on the government bodies that deal with issues relating to migrant workers, as confirmed by most of the responses to the questionnaires. There were, however, some exceptions: the National Confederation of Dominican Workers, the General Confederation of Portuguese Workers – Intersindical, the National Federation of Trade Unions of Japan (Zenroren), the Confederation Syndicale Gabonaise (COSYGA) and the Confederation des Syndicats Chretiens de la Suisse all confirmed that their members are represented in some of the relevant government offices. When questioned about coordination with immigration departments, all the unions, however, gave a negative response. Close coordination with the relevant government offices would help solve some of the problems of migrant workers and could increase their protection.

Ensuring that the legal rights of migrant workers are accepted and providing legal assistance where necessary

The responses to questions about the provisions of legal assistance to migrant workers were mixed: a few unions such as the All Ceylon Federation of Free Trade Unions, the General Confederation of Portuguese Workers -Intersindical, the National Federation of Trade Unions of Japan (Zenroren), the Confederation Democratique du Travail, Morocco, and the National Federation of Dominican Workers confirmed that they do provide legal help. Since conflicts at the workplace frequently develop into legal battles, it is absolutely vital to protect the legal rights of migrant workers and to extend legal assistance, wherever needed.

Developing a network with other organizations looking after migrant workers

The establishment of an effective network among all institutions involved in the protection of migrant workers and the enhancement of their welfare is a *sine qua non* for the success of such activities. Responses to the questionnaires indicated that coordination between such institutions is inadequate and that this lack sometimes prevents organizations from responding effectively to the issues at stake. A well-established system of networking would provide additional support and information to all the organizations involved in the protection of the rights of migrant workers.

Promoting ratification of relevant ILO Conventions

It will be in the interest of migrant workers if unions influence governments to ratify the relevant ILO Conventions for the protection of migrant workers. Most trade unions confirmed they have taken positive steps to persuade their governments to ratify the Conventions, with the exception of the National Confederation of Trade Unions of Japan (Zenroren), the Confederation des Syndicats Chretiens de la Suisse and SOLIDARNOSC, Poland.

Some of the special efforts made by trade unions in this regard can be seen in the efforts of the Federation of the Korean Trade Unions in making concrete representations to the government, establishing high level contact with the Ministry of Labour, participating at the policy-making level, campaigning against discrimination of migrant workers and conducting studies on migrant workers. The Ceylon Workers' Congress has participated in discussions, workshops and seminars on this issue and the All Ceylon Federation of Free Trade Unions has participated in discussions with the Ministry of Labour, The Confederation Syndicale Gabonaise (COSYGA) has sounded the government on the ratification of relevant ILO Conventions and the observance of international labour standards for migrant workers.

Ratification of the relevant ILO Conventions in general by member States of the ILO – and in this case of those related to migrant workers – is of paramount interest to workers and their trade unions throughout the world. Relentless efforts should therefore be made by the trade unions to persuade national governments to ratify the relevant Conventions so as to provide better protection to migrant workers.

Promoting racial harmony and peaceful coexistence between nationals and migrants

Most of the trade unions confirmed that they help migrant workers, especially women migrant workers, to integrate into the social life of the host country. The responses of most unions regarding protecting the religious freedom and cultural identity of migrant workers were mixed (see table 1). The trade unions have an indispensable role and interest in bringing about harmony between national workers and migrant workers at the workplace and in defeating racially-motivated external pressures by political extremists directed at workers, which are detrimental to union principles and workers' solidarity.

Representing migrant workers on all relevant platform in the host country (not allow

languages barriers to get in the way)

The responses to the questionnaires revealed that a majority of unions organize language training classes for migrant workers (see table 1). Where the migrant worker is not fully conversant with the language of the host country, assistance in overcoming the language barrier must be provided (i.e. through the use of interpreters).

Ensuring equality of treatment and avoidance of discrimination at the national level

Responses to the questionnaires confirmed that 100 percent of trade unions consider that migrant workers should be treated on a par with the national labor force and that every step should be taken to eliminate discrimination against them. That should be the standard for all trade union organizations.

© **International and regional trade union organizations**

-- International level

Migration for employment transcending international border involves interaction with the legislations of different countries and issues to be settled on relevant international platforms. In this connection, international and regional trade union organizations assume a significant position in protecting the rights of migrant workers, for they have the added advantage of liaising with several affiliates under their umbrella. At the same time, they are able to take up the relevant issues at the international level by virtue of their status and location. Consequently, as already noted, a questionnaire (Questionnaire C) was circulated to a number of international and regional trade union organizations, and responses were received from 14 unions. The responses received were very relevant to the major issues affecting migrant workers, namely their working and living conditions, equal treatment, etc.

Before analysing their responses to the questionnaire, it is worth mentioning briefly the contribution of some of these organizations towards the cause of migrant workers. Their primary activity is to stress the imperative need for trade unions to organize and speak out for marginalized workers so as to defend their rights and interests. They also actively press for equality of treatment of migrant workers, elimination of all kinds of discrimination against them, and the repeal of social and labour laws which are in conflict with international labour standards. In addition, they try to persuade governments to introduce better economic policies that will increase workers' opportunities, remuneration and chances of securing employment.

In this connection mention was made of the International Confederation of Free Trade Union's (ICFTU) Charter for Migrant Workers, which makes the following points:

- Migration should be an act of free choice, not the result of poverty or desperation. Therefore, aid, trade and investment policies should build development in poorer countries so that people are not forced to migrate.
- Migrants must have absolutely equal treatment with regard to conditions of employment, wages, union rights, housing and so on, both for their own well-being

- and to ensure that they are not exploited so as to undermine national workers.
- Migrant workers have a right to family life and so to be joined by spouses and immediate relatives.
- Enforcement mechanisms are needed to end discrimination against migrants, accompanied by campaigns to combat racism and xenophobia.
- Labour traffickers and those who encourage migration under false pretenses must be prosecuted with the full weight of the law.

The ICFTU/ETUC¹/USTMA² Conference on Maghreb Migrant Workers in the European Community, held in Tunis in April 1991, recommended that the European Community considers the promulgation of a Social Charter of Migrant Workers' Rights as a basis for its actions to integrate fully migrant workers. The Conference on the Roles of Trade Unions in the Protection of the Rights of Migrant Workers, organized by the ICFTU and held in Singapore in January 1994, further focused on the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. This Convention encompasses many of the rights enshrined in the relevant ILO Conventions and also covers the rights to religious freedom, the right to protection from the State against acts of violence, and the right to receive all wages and entitlement in the event of expulsion.

The World Conference of Labour (WCL) has also identified its main areas of support for migrant workers as follows:

- the social rights of migrant workers such as family welfare, education and health;
- the fight against xenophobia and racism wherever they discriminate against migrant workers.

It focuses on future action in the area of upholding the basic human rights of migrant workers and protecting their entitlement to equality of treatment in their working and social lives.

The World Federation of Trade Unions (WFTU) points out in its Charter that immigrants' living and working conditions are often unfavourable and that “they are men and women without rights, often illiterate, who leave a life of poverty for one which is deprived of rights and human dignity”. It aims to “guarantee employment and access to different jobs and promotion, equal pay for equal work, vocational and advanced trainingand equality of treatment with respect to social security benefits...”

The European Trade Unions Confederation (ETUC) is emphatic in its support for migrant workers, which includes a package of recommendations covering both the social and living conditions and the working conditions of the migrant worker, as observed in its comments on immigration policy addressed to the European Parliament. The ETUC Working Group on Migration and Racism continues its work of analysing and debating issues related to the protection of the rights of migrant workers, identifying issues for discussion and making proposals to its Executive Committee for information and mobilization campaigns.

¹European Trade Unions Confederation (ETUC).

²Union Syndicats Maghreb Arab (USTMA).

The International Federation of Building and Wood Workers (IFBWW) has also set standards for compliance in its industries which “companies and governments must respect and pursue policies designed to promote equality of opportunity and treatment in employment, eliminating discrimination based on race, colour, sex, religion, age, political opinion, national extraction or social origin” in accordance with the relevant ILO Conventions. At the IFBWW Conference in Palermo in 1992, an action plan to assist migrant workers was drawn up; this covered rights relating to working and living conditions, employment, remittance of funds, etc. It also upheld their rights to family reunification, eligibility for social benefits and access to subsidized housing.

The Public Services International (PSI) too, at its 25th World Congress in Helsinki in August 1993, was fully aware that the numerous and complex problems of migrant workers cannot be solved on an individual country basis but require collective action on a broad front involving governments, the private sector, the mass media, trade unions and civic and religious groups. It called upon the ILO to step up efforts to persuade governments to ratify the various ILO Conventions pertaining to migrant workers.

The International Graphical Federation (IGF) and the European Graphical Federation (EGF), at their International Trade Union Conference on Immigration in Europe in November 1992, drew up an action plan as follows:

- challenge direct and implicit discrimination against migrant workers by implementing positive policies;
- develop mutual understanding of the needs and cultural differences of immigrant workers;
- provide information on the union, its structure, etc., in the appropriate language and form understandable by immigrant workers;
- provide specialist advice for immigrant workers on their social and legal rights and obligations within the host country.

The main areas of focus for international trade union organizations will therefore be as follows:

Maintaining regular linkages with organizations engaged in the promotion of migrant workers' welfare

The responses to the questionnaire revealed that linkages with other organizations, including the trade unions of both migrant-sending and migrant-receiving countries, are being maintained. For instance, the International Textiles, Garments and Leather Workers' Federation, the International Federation of Musicians, the World Confederation of Labour (WCL) and the Trade Union International of Food, Tobacco, Hotels and Allied Industries confirmed that they were promoting coordination among their various affiliated organizations. The World Confederation of Labour (WCL) indicated that one particular secretariat in its organizations will deal with migrant workers and will coordinate with the other secretariats on this issue. There is, however, a resource crunch as a result of which intensive networking is not being implemented at the expected levels. Moreover, some of the organizations have no action plan nor any specific policy for

promoting the welfare of migrant workers. In some cases, lack of previous experience is also an obstacle to the implementation of measures directed towards equality of treatment, improved working conditions, welfare for families and women migrant workers and employment security. As in the case of the national trade unions, these organizations have no special unit which deals exclusively with the welfare of migrant workers.

Developing a good networking arrangement with trade unions of other countries – specially between migrant-sending and migrant-receiving countries

Though the responses to the questionnaires by the international and regional trade union organizations confirmed that this is being done, none of these organizations mentioned an action plan to coordinate their activities with those of the trade unions of the migrant-sending and migrant-receiving countries. At the international level, therefore, this coordination can be further strengthened.

Ensuring that the rights of migrant workers and their problems are adequately focused at the international level

In this respect, most of the responses to the questionnaires indicated the presence of external factors as constraints, although none of them specified what these factors are. Worth mentioning here are the special efforts undertaken and the appeals made in this respect by some of the following organizations:

International Textiles, Garments and Leather Workers' Federation (ITGLWF)	Published policy guidelines aimed at increasing the influence of trade unions on the issue of work permits and salary inequalities
Federation of African Migrant Workers in France (FETAF)	Intervened in international conferences on behalf of African migrant workers in Europe in general and in France in particular
Public Services International (PSI)	Calls upon the ILO to persuade governments to ratify relevant ILO Conventions
European Trade union Confederation (ETUC)	Invited ILO representatives to its workshops; will have ILO tripartite meeting on migrant workers; Corroborates with the Forum for Migrant Workers of the European Union
World Confederation of Labour (WCL)	Organizes with affiliated organizations and social partners conferences on migrant workers

International Textiles, Garments and Leather Workers' Federation (ITGLWF)	Published policy guidelines aimed at increasing the influence of trade unions on the issue of work permits and salary inequalities
Organization of African Trade Union Unity (OATUU)	Issued protest letter to French authorities, when in 1992 the Federation of African Migrant Workers in France (FETAF) informed mass arrests of migrant workers, many of whom were pregnant migrant women. Sent strong protest letter in February 1995 to the President of the Republic of Gabon for the expulsion of migrant workers.

In 1993, the UN World Conference on Human Rights examined the relationship between the development and the enjoyment by everyone of economic, social and cultural rights, as well as civil and political rights. It recognized the significant contribution of trade unions to the realization of this goal through effective popular participation of all concerned. This is possible when trade unions are able to demonstrate, in their actions and programmes, their solidarity with marginalized workers, to press for legislation to protect them, to support policies to provide them with better jobs and to oppose actions by governments and employers tending towards the casualization of employment. This requires trade unions to evaluate the appropriateness of their organizing strategies to meet the needs of migrant workers and to develop special organizing campaigns in the light of such considerations. This may entail specific structures to promote new activities such as specialized educational courses, provision of information and socio-economic projects. Their activities should enable government to recognize the role of workers' organizations in improving the conditions of migrant workers and accordingly should create conditions which will facilitate the growth of genuinely free and independent workers' organizations.

Excerpts from Organizing for Social Justice. Global Report under the Follow up to the ILO Declaration on Fundamental Principles and Rights at Work. 2004. International Labour Office. Geneva. Pp40-44.

Migrant Workers

152. Over 80 million persons are economically active today in countries other than their own, mostly labouring at the bottom of the occupational ladder and with little knowledge of the local language. Women make up make or more of the migrant workers in Asia and Latin America, and their proportions are rising elsewhere. Migrants who are undocumented or in an irregular situation experience worse conditions than others, They may constitute up to one-fifth of all foreign workers. Migrant workers will be the subject of a general discussion at the current session of the International Labour Conference.³

153. The 2000 Global Report, *Your voice at work*, identified migrant workers as one of the groups often denied the right to organize in law or in practice. Even when legal hurdles do not exist, migrant workers face particular difficulties due to lack of knowledge of their rights, fear of encountering problems with their employers or the police, etc. The unionization of migrant workers is a fundamental step towards realization of the effective recognition of their right to collective bargaining. Equality needs to be promoted within unions; and migrant trade union representatives should be able to sit side-by-side with others when collective agreements are negotiated. Such agreements can include clauses dealing with discrimination based on sex, race and religion – to which migrant workers are particularly vulnerable.

154. Despite difficulties, there are numerous encouraging cases of migrants joining mainstream unions in their countries of employment or setting up their own organizations. Trade unions in industrialized countries have increasingly recognized that organizing and protecting migrants is part of the challenge posed to the labour movement by globalization and international migration. Organizing migrant workers and defending their rights also reflects stronger commitment by trade unions to fighting racism and racial discrimination at work⁴. Existing unions can revitalize their membership by admitting migrants. One example is the Industry and Construction Trade Union (GBI) in Switzerland, where, as a result of a deliberate policy and activities relating to migrant workers, two-thirds of the members are now foreigners; another is the Portuguese Workers' Project that led to many of the 20,000 Portuguese workers in the United Kingdom joining unions there. Out of the 600,000 new members gained by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) since 1999 – after years of decreasing membership in the United States – many are migrant workers from Latin America and the Caribbean.

155. In Germany, unions in the construction and agriculture sectors established links with Polish unions, and opened an office in Warsaw to disseminate information on working

³ILO: *Towards a fair deal for migrant workers in the global economy*, Report VI, International Labour Conference, 92nd Session, Geneva, 2004.

⁴See ICFTU: *Trade unions say no to racism and xenophobia! Plan of Action for trade unions*, report prepared for the World Conference Against racism, Racial Discrimination, Xenophobia and Related Intolerance, Durban, 31 Augu.-7 Sept. 2001, at www.icftu.org/www/pdf/CISLLantiracismeEN.pdf.

conditions and labour rights as well as to encourage workers to join unions before arriving in Germany. The International Federation of Building and Wood Workers (IFBWW) has supported the conclusion of bilateral and trilateral agreements between unions in sending and receiving countries, recognizing common union membership.⁵ For example, the Austrian and Hungarian unions have concluded bilateral agreements, while the German Construction, Agriculture and Environment Union (IGBAU) has signed agreements with a Polish union.⁶ In Italy, the Italian Confederation of Workers' Unions (CISL) has signed collaboration agreements with unions in migrant-sending countries such as Cape Verde, Morocco, Peru, Senegal and Tunisia.

156. Trade unions in sending countries have likewise initiated cooperation with unions in countries of employment. This is the case, for example, of the National Union of Autonomous Trade unions of Senegal (UNSAS), the National Confederation of Dominican Workers (CNTD), the Ceylon Workers' Congress (CWC) of Sri Lanka and the Moroccan Labour Union (UMT).⁷ Union Network International (UNI) has established a "UNI passport" that allows service workers to maintain their rights as union members as they move from country to country. This initiative was prompted by the creation of professional forums in Indian cities by information technology (IT) workers who requested affiliation to UNI.⁸

157. Migrant workers in receiving countries face several obstacles that make it difficult for them to approach unions. One is the language barrier. A number of unions, such as GMB in the United Kingdom, have issued recruitment and information material in the languages of the workers targeted or have used interpreters or union officials speaking the language of the workers. In Israel, the National Federation of Building and Wood Workers prepared information brochures on labour laws in Bulgarian, Chinese, English, Romanian and Turkish⁹ and distributed them among migrant workers in the construction sector.

158. Various trade unions in migrant-receiving countries have established union structures specifically dealing with migrants' concerns and migration issues. In the United States, a number of unions have created the Immigration Rights Advocacy, Training and Education Project (IRATE) in the Boston area, to assist migrant workers and help them to organize. IRATE provides information and legal assistance and helps to form workers' committees with the aim of training future union advocates.¹⁰ In Italy, the Italian General Confederation of Labour (CGIL) established in the late 1980s a department on migration policies and a coordinating committee for migrants. More

⁵*Forced Labour outcomes of irregular migration and human trafficking in Europe*, Report of the Trade union Consultation Meeting, InFocus Programme on Promoting the Declaration on Fundamental Principles and Rights at Work, Special Action Programme to Combat Forced Labour (Geneva, ILO, 2003), p.19

⁶IFBWW: *Exploitation of construction, forestry and wood workers in connection with migrant and cross border work* (July 2003)

⁷N. David: "Migrants get unions back to basics", in *Labour Education* (Geneva, ILO, 2202/4), No. 129, p.73.

⁸Ibid., p.74.

⁹IFBWW, op.cit., p. 32.

¹⁰ILO: *Promoting gender equality: A resource Kit for Trade unions*, Booklet 6: Alliances and Solidarity to promote women workers' rights (Geneva, 2002).

recently, the CGIL has put out television programmes for migrants in different languages. The second major Italian confederation, the CISL, in addition to a national migrants' coordination committee, has a committee for women migrants, both chaired by migrant workers. The CISL promoted the creation in 1989 of the National Association Beyond Boundaries (ANOLF) that had a membership of over 55,000 foreign and 400 Italian workers. It informs and advises migrants about their rights and runs broader workers' education courses, including language training.

159. Migrant workers who are undocumented or in an irregular situation pose a delicate problem. A 1996 ILO study showed that, in the migrant-receiving countries surveyed, only the All Ceylon Federation of Free Trade Unions, the National Confederation of Dominican Workers and the General Confederation of Portuguese Workers stated that they would accept undocumented workers as members.¹¹ A number of unions have since taken initiatives aimed at lobbying for, defending and organizing this particularly vulnerable category of workers. In the Netherlands, for example, the Netherlands Confederation of Trade Unions (FNV) opened membership to undocumented migrant workers in 2000. In Switzerland, unions have worked together with the movement of undocumented workers - “*sans-papiers*” - and have obtained some positive results in terms of legalization of the status of a number of undocumented migrant workers. In the United States, the Union of Needletrades, Industrial and Textile Employees (UNITE) and the Hotel Employees and Restaurant Employees International Union (HERE) are negotiating clauses obliging employers to inform the union of impending visit by immigration officials, in response to some employers threatening to denounce illegal immigrant workers who tried to organize.¹² In Canada, the Canadian Labour Congress (CLC) has started campaigning on regularizing immigration laws.

160. The rights of undocumented workers have also recently come up in cases before the ILO's supervisory system. In a case involving Spain, the Committee on Freedom of Association concluded that Spanish legislation denying trade union rights to undocumented foreigners, which took effect in 2001, was not in line with Convention No. 87. The case referred to a Spanish law that sought to draw a distinction between the rights of legal and illegal immigrants.

161. The Committee also examined a complaint against the Government of the United States referring to a ruling by the Supreme Court that an undocumented worker was not entitled to back pay for lost wages after having been illegally dismissed for exercising trade union rights. The Supreme Court decision overturned the findings of the National Labor Relations Board (NLRB) in a case involving Hoffman Plastic Compounds, Inc. The CFA concluded that denial of the back pay ordered by the NLRB left workers without adequate protection against anti-union discrimination.

Domestic Workers

162. Domestic workers, and particularly those who move abroad, play a growing socio-economic role in the current global labour market. Women working in the formal

¹¹See S. Barwa and A. Ibrahim: *Protecting the least protected: Rights of Migrant Workers and the role of Trade unions – Guidelines for trade unions* (Geneva, ILO, 1996), p.7.

¹²ICFTU: *Trade unions say no to racism and xenophobia*, op.cit., p.11.

economy sometimes depend on domestic workers to look after their household and children. The decline of the welfare state and the predominance of the nuclear family also mean that more and more people are turning to domestic help. At the same time, many families in developing countries rely on remittances sent by migrants working in the domestic sector. In return for their contribution to society, however, domestic workers are all too often subjected to abuse and the denial of fundamental rights at work. In 2000, *Your voice at work* noted that a number of countries exclude domestic workers from the scope of their labor legislation and deny them the right to organize.¹³ Since then, little has changed.

163. The personal nature of the employer-employee relationship and the worker's extreme dependence on the employer make it difficult for domestic workers to organize and claim their rights. The living-in pattern of domestic work creates a dependence on the employer that is both factual and psychological in nature. Cohabitation nurtures the perception that the domestic workers is "part of the family", in an ambiguous situation with no clear boundaries between labour and personal relationships; as a result, it is difficult for employers to recognize domestic workers' rights and for workers to claim them. Labour law's silence on domestic work is often excused by invoking the principle of non-intervention by the State in the private sphere. Domestic work has ended up "occupying some twilight zone between market and non-market relations".¹⁴

164. Isolation is an obstacle hindering domestic workers from forming unions, as it is difficult for domestic workers to be in contact with their peers. As a result, they are largely invisible and difficult for trade unions to reach. This is complicated by the fact that some unions have traditionally shared the prevailing social perception of domestic employment as a "different" type of work. The organization of domestic workers is a key tool in combating the violations of all the fundamental principles and rights at work, including in respect of freedom from forced labour, child labour and non-discrimination. It is worth noting that there is virtually no demand for forced or trafficked labour in sectors where workers are well unionized and labour standards on working hours, health and safety, wages and employment contracts are not only set but also enforced.¹⁵

165. Despite these obstacles to organizing, there are success stories. Associations of domestic workers have established some form of collaboration with existing trade union, and members of such associations have joined existing trade unions. In some cases, trade unions have been a driving force for the organization of domestic workers. The South African Domestic Service and Allied Workers Union in South Africa, described in Chapter 4, is a case in point.

166. Organizing domestic workers requires innovative strategies and approaches. The

¹³It is symptomatic that all of the Global Reports dealing with the four categories of fundamental rights have single out domestic workers as one of the groups of workers which are significantly affected by a rights deficit; see ILO: *Your Voice at Work*, op cit., pp.31-32; *Stopping forced labour* (Geneva, 2001), p.30; *A future without child labour* (Geneva, 2002), pp. 29-30; and *Time for equality at work* (Geneva, 2003), p.21.

¹⁴B. Anderson: *Migration policies and vulnerabilities of domestic workers*, paper presented at the Programme Consultation Meeting on the Protection of Domestic Workers against the Threat of Forced Labour and Trafficking, Hong Kong, China, Feb. 2003, p.16.

¹⁵Ibid., p.21.

provision for a wide range of services, including addressing the lack of self-esteem and workers' consciousness, is crucial to attracting domestic workers. In Costa Rica, the Household Workers' Association (ASTRADOMES), which was set up in 1991, adopted a holistic approach, providing domestic workers with services such as telephone inquiries, advice, support, legal and social guidance, temporary shelter for dismissed workers and training on various subjects including both labour rights and duties. Today this organization has 400 members – migrants from Nicaragua, Salvador, Honduras and Guatemala.

167. There are examples of migrant domestic workers organizing themselves, such as the Indonesian Migrant Workers' Union (IMWU) established in Hong Kong, China in 2000. The creation of this union is the result of a process started in 1996, in which the Asian Migrant Centre played a pivotal role. Indonesian domestic workers felt encouraged by the example of other migrants' unions and their interaction with them. Today, in Hong Kong, China, approximately 240,000 women migrant domestic workers are organized in some 20 trade unions, which have the support of the Hong Kong Confederation of Trade Unions.

168. Trade union sensitivity to domestic workers' rights and efforts to reach out to them have been rewarded with unionization. In the United Kingdom, for example, the organization of Filipino migrant domestic workers (*Waling Waling*, now called United Workers Association) has encouraged its members to join the Transport and General Workers Unions (TGWU). The TGWU itself encouraged Filipino domestic workers, many of whom were undocumented, to join and take part in its activities. The unionization of Filipino domestic workers helped the union to enhance its action on migrants' rights and empowered domestic workers, who played an active part in the union campaign aimed at changing the immigration rules on domestic workers.

169. In the domestic sector, giving effect to the right to collective bargaining is an even more complex issue than that of the right to organize. The exercise of collective bargaining is made difficult not only by legal barriers and the general lack of unionization of domestic workers, but also because there is a problem in identifying a collective counterpart. This is why the action of unions of domestic workers' associations tends to focus on promoting legislative and policy changes. However, collective bargaining does take place in the domestic sector in some countries, such as France and Italy.

“POEA, the Government, and Unions: A Close Enterprise?”*

Administrator Rosalinda Dimapilis-Baldoz
Philippine Overseas Employment Administration (POEA)

Over the years, we at POEA have constantly strived to defend the rights of millions of Filipinos toiling soils overseas. Yet we cannot discount the fact that despite national legislation and other regulations from participating agencies such as the Department of Foreign Affairs, OWWA, DOLE, NLRC, and the NGOs, there are still a number of cases of abuse and contract violations among OFWs. The Migrant Workers Act is not enough. What we need is a rights-based and gender-sensitive regime that monitors overseas employment and encompasses preventive rather than counteractive measures. The three papers acceded on this theme by presenting “the ins and outs” of overseas employment.

The paper entitled, “*Philippine Labor Migration: An Overview*” presented at the said conference bore out the fact that the country’s maddening rates of poverty and unemployment readily triggered overseas employment. Straight off the bat, the paper pointed out how the country also witnessed an annual rise in deployment figures, hitting almost the 1 million target set by the President given last year’s count of 933,588 (landbased and seabased) workers. This mounting trend is amplified by the reality that more and more women now join the global labor force--the so-called “feminization” of labor. Confirming such slant is the myriad Filipino women who have left to work in the entertainment and service industries abroad.

Because of labor migration, the country has indeed gained a better clout in its economy, taking in billions of dollars worth of foreign remittances that have aided countless government projects and development schemes. However, labor migration has not been all blue marks. In the paper, “*Asian Migrant Workers: Critical Issues, Strategic Responses and Practical Experience*” we have been informed of the troubles regarding overseas employment that have ranted at our workers, and made them victims of physical and emotional abuse, contract and wage violations, poor working conditions, exploitation, and communicable diseases. Of particular example is Hong Kong, where thousands of OFWs endured the aforesaid difficulties. At the end of it, these workers have also contended with the social costs of overseas employment such as the breaking down of their families and absence of immediate protective mechanisms.

Finally, the paper on “*Migrant Work: A New Frontier for the Trade Unions*” presented a final blow to the realization that the difficulties migrant workers face may be addressed not just by NGO work alone, but by substantially intricate operations and interest aggregation of labor unions whose “organizing” efforts are far more intact than NGOs. This is what the paper vigorously argues, if not proposes. In the said advocacy series, unions have been presented to be at odds with the frequent manipulation of foreign employers. Social movement unionism is seen to be at a looming demise, specifically in the case of labor migrants who play against the complexity of organizing and networking.

*Paper submitted by POEA to complement the forum presentation of Administrator Baldoz

This is now the challenge for existing labor unions: to go beyond their local confines and begin trekking the trajectories of interstate aggregation of their interests. These unions have to redefine their strategies and make way for more dynamic means of organizing. Networks and coalition building must take a stepwise approach, starting from membership to national and international levels. They ought to revitalize their indoctrination and empowerment capabilities in order to reach out to any OFW abroad. They have to see, to conquer, and go beyond the mediocrity and self-professed unionism with limited short-term goals. This is the challenge for re-invention—for workers, for unions, and us here in POEA. We shall all continue our commitment to improve our services for departing OFWs and equip them with the adequate knowledge of labor, immigration, social security issues and rules in the host countries in order to avoid work problems. Unions and all NGOs involved in overseas employment should have no less than mastery of their body of legislative and ministerial issuances for stronger and effective advocacy of workers' rights, interests and welfare. We shall maintain an "open-door" approach to other agencies and NGOs whom we consider as our allies in the protection of overseas Filipino workers and the upholding of their rights, here, and in the whole world.#



The Dr. Alfredo J. Ganapin Advocacy Forum Series is a quarterly public forum of CMA. It focuses on labor migration and issues affecting overseas Filipinos.

The Center for Migrant Advocacy honors the memory of Dr. Alfred J. Ganapin, an overseas Filipino worker and committed advocate, by naming the forum after him. Alfred passed away in Riyadh, Saudi Arabia in 2004. Alfred advocated for the integration of the concerns of Filipino migrant workers in the national agenda. He engaged and called on government officials and legislators to serve and protect the interests of migrant workers. He was a reliable *kababayan* (compatriot) who helped migrant workers in Saudi Arabia and other places.

The Center for Migrant Advocacy Philippines (CMA) is an independent policy advocacy group that promotes the rights and interests of overseas Filipinos, particularly the disadvantaged and marginalized sectors. CMA works to improve the economic, social and political conditions of migrant Filipinos and their families through policy advocacy, information, networking, capacity-building, assistance facilitation for migrants in distress.

CMA is a member of the Philippine Migrants' Rights Watch (PMRW), the Network Opposed to Violence Against Women Migrants (NOVA) and the Freedom from Debt Coalition (FDC) in the Philippines. It is also a member of the Migrant Forum in Asia (MFA).

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