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SUMMARY

Developing countries can proactively manage large-scale, systematic, and legal movement of temporary migrant workers. For almost 35 years, the Philippine government has managed the overseas employment of millions of Filipino workers. Analyzing the Philippine Overseas Employment Administration (POEA), the key institution managing this huge labor flow, points to three areas of government intervention: (1) limiting participation to qualified employers, workers, and recruitment and manning agencies; (2) creating rules and regulations that govern the recruitment process and set minimum standards of employment; and (3) maintaining a system of adjudication to ensure compliance.

However, the Philippine model has its imperfections. POEA has a mixed record when it comes to protecting migrants' welfare while simultaneously maximizing deployment, caused largely by a lack of sufficient funding and personnel. Developing countries keen on emulating the Philippines must overcome these challenges of dual missions and capacity. They also must understand that their domestically focused labor regulations face serious limitations due to migration's international nature. In other words, POEA is a local institution managing a global phenomenon over which it does not have complete and direct control. As POEA's experience demonstrates, labor migration requires collective efforts at many levels and in both the sending and receiving countries. Importantly, POEA has yet to translate deployment into concrete development outcomes at home. Effectively harnessing the benefits from migration also requires creating a sound development policy to which overseas employment may contribute.

Managing Temporary Migration: Lessons from the Philippine Model

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I. Introduction

In 2007, more than a million temporary migrant workers left the Philippines to work in over 190 countries, each one bearing an employment contract issued and certified by the Philippine government. From factory and domestic workers to engineers and nurses, Filipinos occupy a wide range of jobs abroad. Legal movements of temporary workers on this scale are unparalleled elsewhere in the developing world. They join a huge Filipino diaspora estimated by the Commission on Filipinos Overseas at 8.7 million people, one of the largest emigrant populations in the world, and

nearly half of those Filipinos are legal temporary workers. For many international observers, the Philippines' system of managing temporary migration has unrivaled sophistication, making it a model for other developing countries hoping to access the benefits of global labor mobility.

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A closer look at this system suggests that it deserves the international recognition it receives. However, the model has a fair number of flaws. The Philippines' almost 35 years of experience suggest that developing countries can create institutions to facilitate legal and large-scale temporary

migration. It also suggests that overcoming the obstacles these institutions face requires cooperation at many levels of government and in both the sending and receiving countries. An even larger challenge is translating global labor-market integration into concrete development outcomes at home.

This *Insight* outlines these challenges and explains how the system actually works — the

Before the 1970s, the Philippine government played a limited role in overseas employment.

actors involved, the rules they have to follow, and how well the government enforces these rules. It is based primarily on analysis of relevant government documents and data as well as on interviews with several

high-level government officials and heads of migrant organizations.

II. Shifting Policies: From Laissez-faire to a Highly Regulated Market

Before the 1970s, the Philippine government played a limited role in overseas employment. Private recruiters facilitated small-scale migration of farm workers to pineapple and sugar plantations in Hawaii from the early 1900s until World War II. From that point through the 1960s, relatives of this first wave of migrants, as well as naturalized Filipino soldiers and their dependents, composed the bulk of migration flows, almost all of it to the United States. Legislation passed as early as 1915 and thereafter dealt primarily with US migration.¹

Demand for temporary migrant workers increased in the early 1970s, fueled mainly by the economic boom in the Middle East. The Philippine government quickly took advantage of the emerging contract labor market in this region, and, in 1974, adopted The Labor Code of the Philippines — the key piece of legislation that institutionalized labor migration and put in place the state’s overseas employment strategy.²

From the outset, policymakers perceived overseas employment not only as a safety valve for reducing domestic labor-market pressures and as a valuable source of foreign exchange but also as a route to development. To then President Ferdinand Marcos, overseas employment could “export the country’s economic and political tensions.” And he wrote:

For us, overseas employment addresses two major problems: unemployment and the balance of payments position. If these problems are met or at least partially solved by contract migration, we also expect an increase in national savings and investment levels. In the long run, we also expect that overseas employment will contribute to the development of the country’s industrial base.³

The government’s concern about development was central to creating the overseas employment program. However, converting gains from large-scale overseas employment into concrete development outcomes at home has turned out to be more difficult in practice, and the government has drifted away

from its initial goal. We discuss this point later in the paper.

The Labor Code provided the legislative, political, administrative, and policy focus a systematic overseas employment program

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needed. It originally envisioned complete government control of overseas recruitment within four years. Public employment offices were set up to gradually replace private, fee-

charging recruitment agencies, which at the time were blamed for the increasing amount of abuse against migrant workers.⁴

To this end, the Labor Code created a large bureaucracy composed of three institutions: the Overseas Employment Development Board (OEDB), the National Seaman Board (NSB), and the Bureau of Employment Services (BES). OEDB and NSB were responsible for developing the market for overseas workers, recruiting workers, and securing the best possible employment terms for land-based and sea-based workers, while BES regulated private recruitment agencies and functioned as a temporary government-run employment agency.⁵

The number of processed contracts almost tripled in the first three years after these institutions were created, from 12,501 in 1974

to 36,767 by 1977.⁶ The government recognized that the private sector had contributed to the boom and in 1977 it officially abandoned its plan to phase out private recruitment agencies. It allowed the agencies to continue their activities under the strict regulation of BES. In 1982, OEDB, NSB, and BES merged into what is now the Philippine Overseas Employment Administration (POEA).⁷

For over 25 years, POEA has been the sole government entity with the authority to regulate temporary overseas employment, including the activities of private recruitment agencies. As former Labor Secretary Arturo Brion put it, POEA is the “manager” of the overseas employment program.⁸ It is burdened by a twin — and often times conflicting — mandate: maximize deployment without sacrificing migrants’ rights. Thus, beyond its regulatory function, POEA needs to inform overseas workers of their rights, “not only as workers but also as human beings” and to create “mechanisms to redress violations” of these rights.⁹ However, POEA does not cover Filipinos who leave permanently as family migrants or those who go through points-type systems. Stock estimates from the Commission on Filipinos Overseas, another government agency, suggest that POEA manages about 47 percent of total migration from the Philippines.¹⁰

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III. How POEA Is Organized

Attached to the Department of Labor and Employment (DOLE), POEA has a six-person governing board that the DOLE secretary chairs and the POEA administrator cochairs. Along with four representatives for land- and sea-based migrants, women, and the private sector, the governing board crafts the rules and regulations and plans and implements policies and programs for the directorate, which manages POEA's day-to-day operations. The president of the Philippines appoints all members of the governing board (see Figure 1).¹¹

An administrator heads the directorate, which has three operating offices — Licensing and Adjudication, Employment and Welfare, and General Administrative and Support Services — each run by a deputy administrator.¹²

About 97 percent of POEA's total staff of 446 is based at the central office in Manila; the remaining 3 percent are stationed at one of 13 provincial offices in the Philippines.¹³

POEA regularly works with three other agencies within DOLE: the National Labor Relations Commission (NLRC), a quasi-judicial body that adjudicates compensation claims; the Technical Education and Skills Development Authority (TESDA), an agency in charge of developing labor skills and providing technical training to Filipino workers, including migrants; and the Overseas Workers Welfare Administration (OWWA), a financial agency that manages a welfare fund for migrant workers.

Despite the international orientation of its mandate, POEA is a local operation maintaining no offices or permanent representatives abroad. Indeed, the bulk of its overseas-related activities are handled at Philippine Overseas Labor Offices (POLOs), the field offices under DOLE that are based at consulates. POLOs provide welfare assistance onsite and

promote the use of Filipino labor in the host country. In line with the one-country-team approach, POLOs come under the administrative

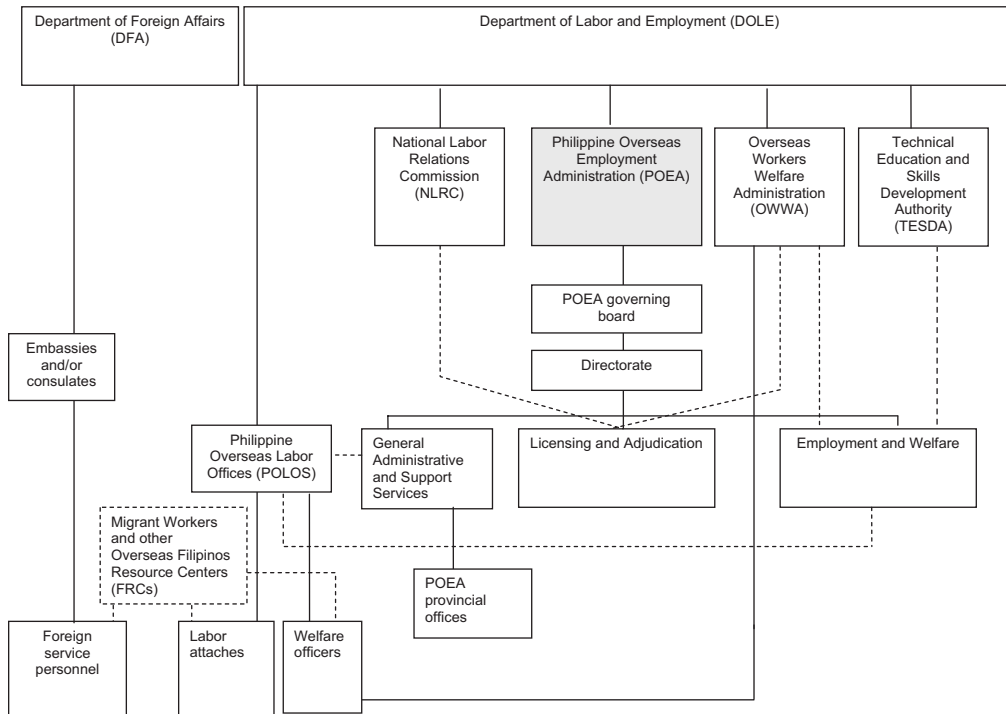
supervision of the Philippine embassy in the country where they are situated; POLOs are not directly accountable or organizationally connected to POEA. This set-up essentially makes POEA a locally based manager for a global labor market.

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IV. How POEA Works

As manager of the Philippines' overseas employment program, POEA oversees a recruitment network where foreign employers and governments can satisfy their demands for Filipino labor in three ways: (1) POEA-licensed private recruitment and manning agencies,¹⁴ (2) government-to-government arrangements, and (3) direct or name hiring. Private agencies handle nearly all deploy-

Figure 1. Organizational Chart of the Philippine Overseas Employment Administration



Source: Philippine Overseas Employment Administration, Department of Labor and Employment.

ment — 94 percent of overseas workers in 2007 (see Figure 2).

POEA controls overseas employment by: limiting participation to qualified employers, workers, and recruitment and manning agencies; creating rules and regulations that govern the recruitment process and set minimum employment standards; and maintaining a system of adjudication to ensure that all involved comply with rules and regulations. In other words, POEA has executive, legislative, and juridical functions.

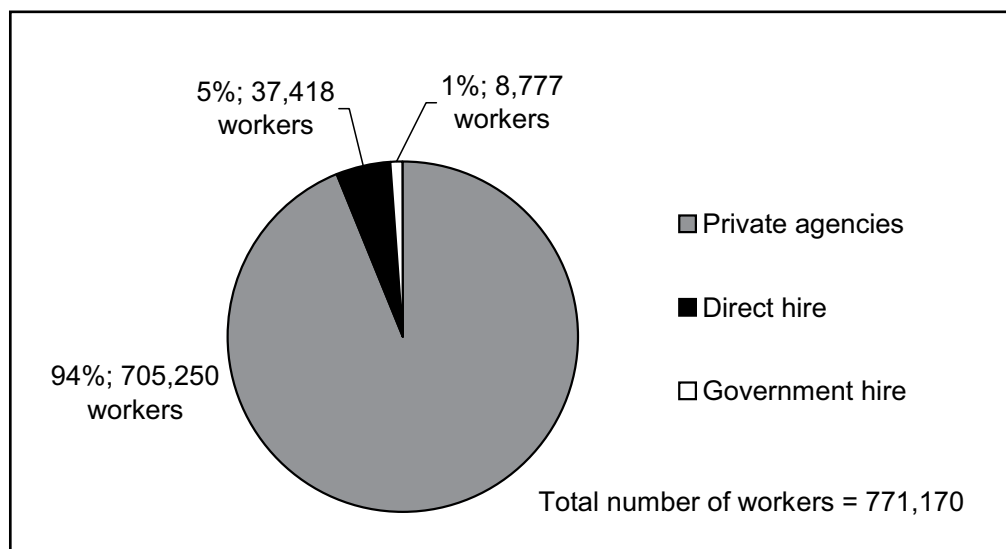
Limiting Participation

POEA created strict entry rules that limit overseas employment participation to those who meet qualifications. Recruitment and manning agencies, foreign employers, workers, and foreign governments have to meet a set of standards before they can participate in overseas deployment.

1. Private Recruitment and Manning Agencies

As already noted, recruitment and manning agencies play a central role in the labor

Figure 2. Number of Processed Overseas Filipino Worker Contracts by Type of Hiring, 2007



Source: Philippine Overseas Employment Administration, 2007 Overseas Employment Statistics.

migration process. The majority are small and many specialize in particular occupations. They generate revenue by charging employers service fees and workers placement fees. From promoting Filipino manpower with foreign employers to repatriating workers, private agencies assume a wide range of functions.

Agencies mainly represent foreign employers in selecting, registering, and transporting workers, but they also serve as “coemployers” and must ensure the employment contract’s proper implementation. If the employer fails to comply with the contract or violates any of its provisions, the worker can apply for legal assistance from the recruitment agency. In such cases, the agencies are liable jointly with and separately from the foreign employer.¹⁵

Through the agencies, the government can exercise pressure on employers who are, after all, beyond the jurisdiction of the Philippines’ justice system — which can benefit workers who would otherwise be left without recourse for unfair treatment. Ideally, private agencies are integral tools of government control, connecting not only workers to foreign employers but also foreign employers to the Philippine government. Their integrity is central to the proper functioning of the system. However, in reality, an agency’s influence on foreign employers depends on its reputation, market clout, and its workers’ destinations and skill levels. Agencies that command a bigger share of the market and send highly skilled workers to countries with more lenient labor laws tend to enjoy greater influence.

The number of recruitment agencies rose from 44 in 1974 to 1,100 by the time POEA took over the system in 1982.¹⁶ From its inception, POEA has been tasked with reducing this number to an optimal level to prevent what policymakers then characterized as “cut-throat competition” among agencies.

However, the government has never provided an optimal number of agencies. Competition, to a certain degree, is necessary, especially in a private-sector-driven industry. But too much competition can increase the likelihood of worker abuse. Policymakers, both then and now, fear that in an overcrowded market,

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some agencies will not make enough profits and, instead of closing shop, will recoup their losses by cutting corners

and breaking the rules (i.e., charging exorbitant recruitment fees or colluding with employers). Thus, to serve its objective of guaranteeing worker protection, POEA has to impose stiff entry conditions to weed out potential violators and keep the market from becoming saturated.

“Hard to Enter” Policy

Only a Filipino citizen, or a partnership or corporation created under Philippine law in which 75 percent of the capital is Filipino-owned or controlled, can operate an agency. This requirement ensures that the recruiter or recruitment agency owner is within the

Philippine government’s jurisdiction should litigation be necessary.¹⁷

Beyond the nationality requirement, agency owners must also pass a criminal and derogatory record examination. POEA rules disqualify applicants with criminal records and those who have been subject to a complaint or charged with or convicted of illegal recruitment. Also ineligible are individuals or corporations operating travel or airline sales agencies that have had a license revoked for violating recruitment and placement laws.¹⁸

Since 1974, agencies have had to prove they have sufficient capital, pay registration fees, and post bonds. While these rules have not changed, the amounts required have increased. In 1991, for instance, POEA raised the capital requirement from 500,000 pesos (US\$11,100) to 1 million pesos (US\$22,200) and the bond from 100,000 pesos (US\$2,200) to 300,000 pesos (US\$6,700).¹⁹

Today, agencies must have at least 2 million pesos (US\$44,400)²⁰ and post two types of bonds: one in the form of a bank deposit under an escrow account of 1 million pesos (US\$22,200) and a surety bond of 100,000 pesos (US\$2,200). The escrow deposit covers valid and legal money claims of recruited workers. These bonds must remain intact at all times or the license will be suspended. On filing a request for a license, the applicant must also pay POEA a filing fee of 10,000 pesos (US\$200) and a license fee of 50,000 pesos (US\$1,100) once POEA approves the application.²¹

In addition, an agency has to show it is tapping into a new market by partnering with foreign employers that did not employ Filipino workers for at least six months prior to the agency's application. The agency must also demonstrate deployment capacity by providing proof of manpower requests for not less than 100 workers.²²

More recently, POEA began to require agencies to pass a panel interview chaired by the POEA administrator in order to confirm and/or clarify submitted information. In these interviews, agencies, especially those deploying household workers and entertainers, may be required to show additional proof of capital, such as deed of sale and mortgage and bank statements. Current POEA Administrator Rosalinda Baldoz finds the panel interviews to be an effective screening tool because they allow POEA to determine the accuracy of information agencies file.²³

When POEA introduced the current financial requirements in 2003, it faced what it characterized as "stiff opposition" from the recruitment industry. Agencies fought back by staging news conferences, lobbying the Congress, and filing lawsuits. They argued that the new rules were too onerous and would essentially kill the recruitment industry and adversely affect deployment figures. Only after the Supreme Court decided in favor of POEA did the new rules finally take effect.²⁴ The requirements had an immediate impact: new recruitment agency applications dropped 58 percent and the number of new licenses issued declined 113 percent within a year.²⁵

After 2003, however, the number of agencies did not decrease. The approval rate has hovered at around 60 percent while the number of recruitment agencies in good standing has leveled off, increasing by less than 1 percent overall in the

past five years. As of 2007, there were 1,422 agencies in good standing out of the 3,168 total licenses POEA

has granted since its inception in 1982 (many of these licenses not in good standing have expired or been revoked or suspended). The number in good standing is 30 percent higher than the number of agencies in existence when POEA was created.²⁶

New agencies receive a provisional license valid for one year. Agencies that deployed at least 100 workers within their first year receive a full license good for another three years. After that, a full license has to be renewed every four years to remain active. Applicants for renewal have to meet the same requirements as when they first applied.

The consensus among top policymakers is that the number of agencies remains very high. For instance, POEA's first administrator and former labor secretary, Patricia Sto. Tomas, believes the market is not large enough to fully accommodate the number of agencies.²⁷ For Sto. Tomas, the ideal number should be around half of the current figure.

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Later in the paper we provide a more detailed discussion of what this means for workers.

2. Foreign Employers

Foreign employers hiring through private agencies have to meet certain entry requirements. They have to undergo either a registration or accreditation procedure before they can hire Filipino workers. Registration applies when POLOs verify documents, such as employment contracts, pertaining to the principal or employer. Accreditation, which applies when the country has no POLO, involves employers submitting these same documents directly to POEA for hiring approval.²⁸

In both the registration and accreditation procedures, the employer has to name an agency to act as its representative in the Philippines. The employer must also draft a master employment contract that satisfies POEA's

POEA has even resorted to banning certain types of employers outright.

minimum standards and issue a manpower request that states the number of workers needed, job descriptions, and the salary of each position. In the accreditation procedure, foreign employers must work with

their recruitment agencies to provide POEA with valid proof of the business or projects as well as documents showing that the necessary visas are available.²⁹

Some employers, especially those hiring workers in vulnerable or high-risk sectors,

such as domestic workers and entertainers, have to meet additional requirements. For instance, companies hiring drivers in the Middle East need to show proof of accident insurance coverage for the driver and comprehensive third-party liability for the vehicle.³⁰ In Singapore, only licensed employment agencies can hire domestic workers due to past abuse cases.³¹

POEA has even resorted to banning certain types of employers outright. Since 2006 in Cyprus, the only individuals or groups that can recruit household workers are immediate family members of senior government officials and senior officials of the diplomatic corps, and duly recognized international organizations.³²

POEA does not register or accredit foreign employers hiring workers directly or by name. However, the employer still has to sign an employment contract and provide the necessary entry documents, such as a valid working visa or work permit. POEA requires these documents in registering direct-hire workers.

Employers hiring low-skilled workers directly face additional requirements. Employment contracts have to be authenticated at POLOs or Philippine embassies. Employers of domestic workers are also required to appear for an interview and preemployment orientation at POLOs. They also need to establish their identity (e.g., picture of employer and spouse, location and complete address of residence, size of residence), prove their family income, and establish a clean criminal record with police clearance.³³

In the past three years alone, POEA registered and accredited 52,000 employers across the 190 countries it serves; 90 percent of those employers were processed at POLOs. Employer registration presents a huge administrative burden to Philippine posts abroad, particularly in Taiwan and Saudi Arabia, which are home to more than two-thirds of registered employers (see Figure 3). Given that effective employer registration is critical to the overseas employment system, it is surprising that POEA has no direct control over it.

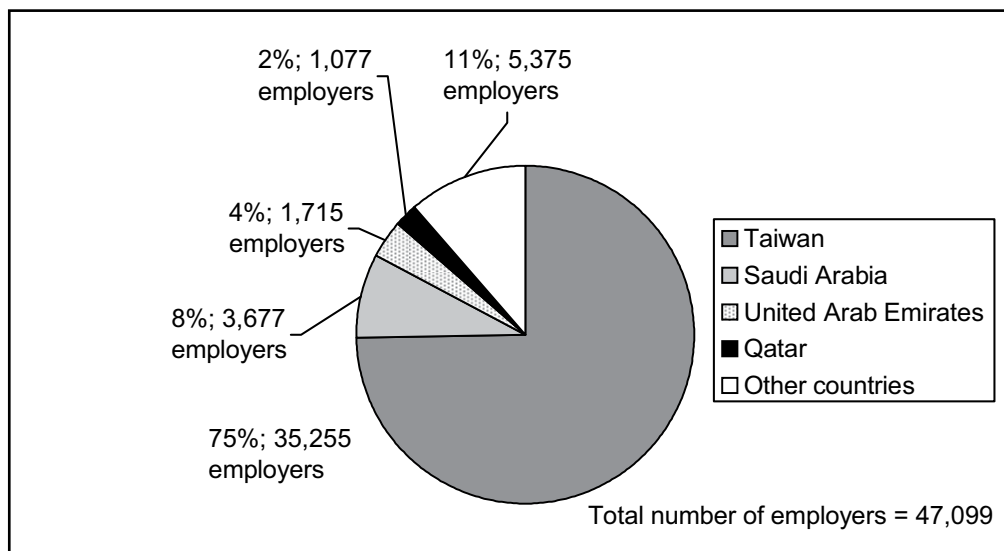
3. Workers

Philippine law dictates that only “medically and technically qualified” workers are eligible to be deployed overseas. Part of POEA’s mandate is to ensure that all workers possess

a prescribed level of technical qualification and physical, medical, and psychological fitness. The government determines an applicant’s physical fitness at medical clinics and facilities accredited by the Department of Health. Health requirements vary by destination and/or occupation. For instance, workers bound for the Middle East are screened for AIDS, hepatitis, and syphilis.³⁴ Technical fitness is determined at testing centers accredited by TESDA, POEA’s sister agency within DOLE.³⁵

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Figure 3. Number of Employers Registered at POLOs by Country, 2005 to 2007



Source: Philippine Overseas Employment Administration, Number of Accredited/Registered Foreign Employers by Country of Destination, 2005 to 2007.

The Philippine government has long considered workers' possession of job-appropriate skills the best protection. Therefore, it has continually strived toward skills standardization, assessment, and certification. The seafaring industry, which has employed more than one million Filipinos just in the last four years, leads other labor sectors, especially in terms of meeting international standards. The Maritime Training Council (MTC), created in 1984, enforces the International Maritime Organization's Standards for Qualification

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of Training, Certification, and Watchkeeping (STCW) for seafarers. Since candidates for officer positions must be college-degree holders and pass the maritime

engineering and transport board examination, the Commission on Higher Education supervises, monitors, and regulates degree programs in marine engineering and marine transportation; the Professional Regulation Board administers professional examinations for these programs. TESDA, on the other hand, assesses and certifies the skills or ratings of nonofficer seafarers through tests and examinations. Seafarers must have certification from at least one of these institutions to be eligible for deployment.³⁶

Efforts to improve skills standardization, assessment, and certification in other sectors have made some headway but have not

reached the level found in the seafaring industry. POEA currently requires skills certification in other occupations, especially vulnerable groups such as factory workers, domestic workers, and entertainers. For instance, applicants under a new government-to-government arrangement that will primarily deploy factory workers to South Korea must have at least a high school diploma and must pass the Korean language test.³⁷

To protect domestic workers and entertainers, who are almost always female and vulnerable to physical and sexual abuse, POEA previously advised the Philippine president to prohibit deployments of such workers. For instance, in 1988, the Philippine Congress introduced a worldwide ban on the deployment of female domestic workers to countries where their rights would not be recognized. However, due to implementation difficulties fueled by a willing supply of workers and concerns over human and constitutional rights, such as the rights to travel, work, and seek better opportunities, the ban was immediately lifted.

In lieu of bans, POEA has gone back to improving these workers' skills and requiring more stringent entry requirements to limit these flows. For instance, as of 2006, all deployed domestic workers must be at least 23 years old, attend a country-specific language and culture course, and secure a certification on household work from TESDA-accredited centers.³⁸ Philippine President Gloria Arroyo characterized this new batch of domestic workers as "supermaids" since they

have certified instruction on skills ranging from operating a microwave oven to administering first aid.³⁹

POEA also requires certification of academic and skills qualifications for entertainers, a broad category that includes singers, dancers, and actors who mainly go to Japan, Korea, and Hong Kong. The entertainer category is ripe for exploitation since some employers bring in entertainers with the intention of making them sex workers. Starting in 2004, POEA required all entertainers to obtain an Artist Accreditation Card (AAC), a document issued to artists who pass auditions in singing or dancing administered by TESDA-accredited centers.⁴⁰

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The testing and issuance of these certificates have caused controversy. Despite efforts to stop deployment of unqualified and underage workers, authorities within POEA themselves admit these requirements are not fool-

proof. Passports and documents can easily be forged and certificates can be “bought.” Certification, if issuance is lax, can help unqualified workers get jobs as entertainers abroad. For instance, AAC replaced the much-criticized Artist Record Book, an identification document and record of academic and skills training and experience issued to entertainers. Critics noted that the Artist

Record Book essentially enabled entertainers to be trafficked to Japan, where they became sex workers. Japan responded to increasing pressure from the United States to curb trafficking and stopped accepting this document in 2003. That move, in turn, prompted POEA to create AAC. However, the new document failed to fully address Japan’s concerns over trafficking. In three years, deployment of entertainers to Japan decreased by 93 percent, from nearly 71,000 departures in 2004 to less than 5,000 in 2007, but the estimated number of women working illegally in Japan has increased. In addition, some migrant groups view additional certification requirements as another way for the government to fleece migrant workers.

4. Foreign Governments

Standards for foreign governments are not well developed since less than 4 percent of deployment goes through government-to-government channels. Although the terms and conditions vary, all foreign governments directly hiring Filipino workers must establish a Guarantee Trust Fund to cover workers’ monetary claims arising from breach of contractual obligations.⁴¹ Currently, POEA serves 17 government clients, of which Korea is the largest.⁴²

Creating the Rules

Beyond imposing entry limits on individuals and entities participating in overseas employment, POEA writes and institutes rules for the recruitment and deployment process and the terms and conditions of employment.

1. Recruiting Do's and Don'ts

Since a recruitment license is considered a privilege, its holders must abide by POEA's rules; otherwise, the license can be revoked. POEA has set standards on where and how recruitment can take place and the associated fees and costs that agencies can legally charge workers and foreign employers.

Where and How to Recruit?

Only a recruitment agency licensee (whether an individual or an entity) may actively recruit workers and may only do so in the place indicated on the license. If the license holder needs to conduct special recruitment activities outside the office, the license holder must obtain prior approval from POEA.⁴³

POEA prohibits employers from directly placing job advertisements. Employers have to ask a licensed recruitment agency to advertise on their behalf. However, advertisements must conform to POEA's prescribed form and layout to ensure they are not false or misleading. For instance, agencies may advertise to maintain a pool of applicants as long as the phrase "manpower pooling only" is clearly indicated.⁴⁴

Fees and Costs

As noted earlier, agencies generate revenue by charging employers service fees and workers

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placement fees. Service fees include costs directly related to recruiting, documenting, and

placing workers. Unless otherwise provided, the employer is also expected to pay the worker's airfare, visa fee, POEA processing fee, and OWWA membership fee.⁴⁵

Agencies deploying land-based workers can charge workers a placement fee equal to one month's salary. For instance, an accountant deploying to Bahrain is expected to pay an agency around US\$700. Exempted from this placement-fee rule are all seafarers as well as land-based workers whose destination countries prohibits, either by law, policy, or practice, the charging or collection of placement and recruitment fees. Starting in 2006, POEA also began prohibiting agencies from requiring placement fees from domestic workers as part of a special reform package for this sector. Agencies cannot impose additional charges on the worker without POEA's approval, nor can they collect the placement fee before the worker receives a formal employment offer.⁴⁶

In general, workers are responsible for documentation costs, which include a passport, a police and *barangay* (village) clearance, a birth certificate, and required medical and trade tests, including inoculation if required. POEA rules allow agencies to perform documentation services as long as the workers only pay the actual cost of the document.⁴⁷

Placement fees are at the center of most recruitment irregularities, with agencies charging excessive prices, collecting fees too early, and failing to issue receipts. A 2004 survey conducted by the Scalabrini Migration

Center in Manila suggests that many migrants are not aware of the standard fees, and some of those who are would consider paying more just to get deployed. Standard fees are for “POEA’s eyes and ears only,” according to the survey. Some agencies even coach migrants about the “correct” fees in case POEA asks them.⁴⁸ An interview with Rene Cristobal, owner of an established and highly regarded agency, also reveals that some agencies do not issue receipts to avoid a paper trail and evade paying taxes.⁴⁹

2. Setting Standards: The Employment Contract

No Filipino worker can be deployed overseas without an employment contract signed by the employer and worker and submitted to and approved by POEA. The overseas employ-

ment contract (OEC) defines the terms and conditions of service of migrant workers during their employment abroad. Additional terms and conditions of employment or benefits can be included

as long as the whole compensation package is more beneficial than POEA’s minimum terms and the package is not contrary to “law, public policy, and morals.”⁵⁰

POEA sets the following minimum provisions for all OECs:⁵¹

- guaranteed wages for regular working hours

- free transportation to and from the work-site or provision of offsetting benefits
- free food and accommodation or provision of offsetting benefits
- fair or authorized causes for termination of employment⁵²

Rather than set a strict minimum wage for all Filipino overseas workers, POEA has established benchmarks. Filipino workers’ salary may not be lower than any of the following:

- the prevailing minimum rate for the same skills or occupation in the host country
- minimum-wage standards set under bilateral agreements or international conventions duly ratified by the host country
- the prevailing wage in the Philippines

To protect seafarers, fishermen, and cruise ship personnel from the hazards of war or warlike operations, POEA issued a ruling in 2002 that requires employers to purchase mandatory war-risk insurance for all workers

bound to war-risk areas, such as the Persian Gulf. The insurance, which should be no less than 200,000 pesos (US\$4,400), should be provided at no cost to the worker.⁵⁴

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3. *Going beyond the Minimum*

In some sectors, POEA actually prescribes a standard employment contract containing provisions that go beyond the minimum requirements. The following provisions are also often included:

- repatriation of remains and belongings at the expense of the employer in case of death
- free emergency medical and dental services and facilities, including medication
- one rest day per working week
- procedures for settling disputes

Currently, there is a standard employment contract with the above provisions that covers a number of occupations such as seafarers, entertainers bound for Japan, and domestic workers.

Seafarers

Following consultations with stakeholders in the maritime industry and in conformity with accepted international standards and maritime practices, POEA accords seafarers the following additional protection:⁵⁵

- no more than 48 hours of work per week
- regular working hours, defined as eight hours for every 24 hours with overtime compensation required if employee works more than eight hours
- holiday pay observing Philippine holidays
- leave accrual of no less than 2.5 days per month or about 30 days of leave for

every year of service

- sickness allowance equivalent to his basic wage but not exceeding 120 days
- premium pay in war or warlike conditions and war-zone insurance coverage⁵⁶
- additional life insurance separate and distinct from other benefits equivalent to US\$50,000 in Philippine pesos, with US\$7,000 for each child under the age of 21 (up to four children)

Performing Artists and Entertainers

Bound for Japan

Workers in this category are exempt from paying the placement fee. The club owner pays the promoter a minimum gross compensation or booking fee of 200,000 yen (US\$1,800) per month.⁵⁷ From this sum are deducted the entertainer's cost of food and accommodation (maximum of 30,000 yen or US\$270 each) and income tax (set at 20 percent of the fee), and commissions for the talent manager and recruitment agency.⁵⁸

POEA regulations have fixed the artist's net compensation at not less than 100,000 yen (US\$900) per month. The employment contract also mandates insurance coverage for health, hospitalization, and death worth 3 million yen (US\$27,300) for each risk.⁵⁹

Domestic Workers

In December 2006, POEA issued a package of reforms for domestic workers, raising the minimum monthly salary from US\$200 to US\$400. In addition to this wage provision, the contract must also include the following conditions:⁶⁰

- continuous rest of at least eight hours per day
- paid vacation of not less than 15 calendar days for every year of service
- employer assistance in remitting a percentage of salary through proper banking channels
- no salary deductions
- no confiscation of passport and work permit
- personal life, accident, medical, and repatriation insurance
- free roundtrip economy-class air ticket or money equivalent in case of contract renewal

Ensuring Compliance

POEA monitors agencies, employers, and workers to make sure all comply with the rules. It also hears, and in most cases, adjudicates complaints of noncompliance and imposes the necessary penalties and rewards.

1. Monitoring Agencies

POEA regularly inspects the offices and records of accredited private recruitment agencies. The agency may also conduct spot inspections upon receiving a complaint or report of a violation.

POEA monitors agencies, employers, and workers to make sure all comply with the rules.

POEA's inspectors examine the premises and, depending on the purpose of inspection, require the licensee to present necessary documents, records, and

account books. Any violations the inspector uncovers are grounds for appropriate sanctions, discussed below.⁶¹

Yet, POEA seems understaffed for this task. In 2007, POEA employed six full-time inspectors for the country's 1,422 active agencies and the 479 agencies that applied for new licenses — a ratio of about one inspector for every 317 agencies.⁶²

Indeed, POEA records indicate that not all agencies are inspected every year. Rather, POEA prioritizes inspections, looking first at agencies whose licenses are up for renewal and those that have a record of recruitment violations or have filed requests to change their location or add office space.

A 2007 report by the Commission on Audit (COA), an independent body, noted that POEA does not maintain a database of recruitment agencies subject to inspection. Without a database, POEA cannot easily determine which recruitment agencies it has not inspected recently. COA raised serious doubts about the extent to which POEA could promptly detect violations.⁶³

Yet, POEA seems understaffed for this task.

Another source of concern is the number of inspections conducted per year. POEA records indicate that inspections have declined 21 percent, from 1,995 in 2005 to 1,575 in 2007, despite an increase in

the number of active agencies in the same time period. In particular, random inspections, which POEA calls annual inspections, dropped almost 70 percent, from 863 in 2005 to just 264 in 2007. POEA attributed the decline to an increase in license renewals, which is a priority, and a shortage of inspectors (see Figure 4).

POEA also monitors agency advertisements to ensure their form and layout are not false or misleading. In 2007, POEA reviewed more than 9,000 advertisements. Only 4 percent violated POEA regulations. The most common infraction was failing to include the name and jobsite of the prospective employer. POEA also found a number of employers placing advertisements directly.⁶⁴

2. Monitoring Workers and Employers

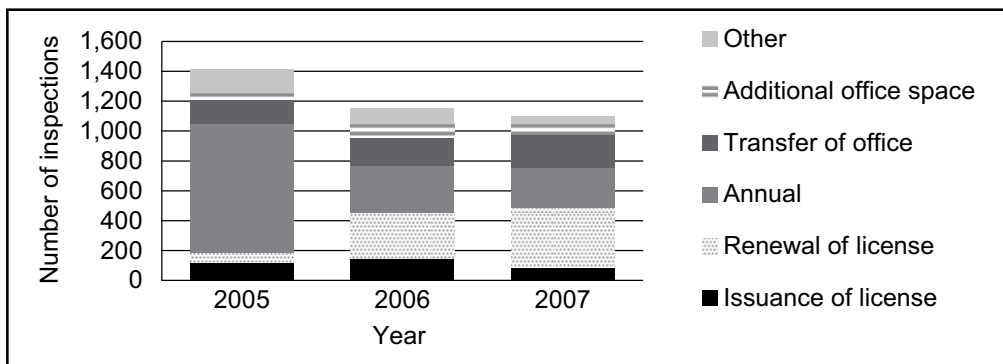
Monitoring workers and employers has proven to be even more difficult than monitoring recruitment agencies. POEA primarily checks on workers as they transit in and out

of the Philippines. For instance, to ensure workers are properly documented before proceeding to their overseas job sites, POEA maintains assistance centers at international airports and other exit points. Workers without proper documents cannot leave.⁶⁵ Workers planning to temporarily return to the Philippines for vacation also need an exit clearance to prove they have undergone the right procedures. The exit clearance, which can be acquired online, at POLOs before returning home, or upon return to the Philippines, also exempts workers from paying travel taxes and airport terminal fees.⁶⁶

Monitoring workers and employers has proven to be even more difficult than monitoring recruitment agencies.

Once workers are in a host country, however, POEA has limited ability to monitor their welfare. As already indicated, POEA

Figure 4. Regular Agency Inspections by Purpose, 2005 to 2007



Source: Philippine Overseas Employment Administration, Statistical and Performance Reporting System Accomplishment, 2005 to 2007.

does not maintain offices abroad and POLOs are solely responsible for monitoring the conditions of Filipino workers. Unlike agen-

Some labor attachés claim it is “virtually impossible” to monitor all Filipino workers. . .

cies based in the Philippines, foreign employers and their Filipino workers are not subjected to random and periodic inspections. According to the 2007 COA study, some labor attachés claim it is “virtually impossible”

to monitor all Filipino workers; thus monitoring takes place during their community visits. POLOs also encourage the workers to visit their posts upon arrival.⁶⁷

The 2007 COA study found that POLOs are not even aware of the number and identity of Filipino workers deployed within their jurisdictions because POEA does not provide them with a list of deployed work-

Monitoring would not be as critical an issue if destination countries covered migrants’ labor rights.

ers. Although the Department of Foreign Affairs initiated a shared government information system as early as 1996 to facilitate this type of critical information

exchange, the effort has been discontinued due to “operational constraints.”⁶⁸ The COA report concluded that “POLOs could not effectively monitor and protect the interests” of Filipino workers abroad.

POLOs are also required to monitor employers’ compliance with contract provisions, a difficult task given that employers are not required to submit reports. The POLO office in Libya, for instance, claimed that it only asks employers to submit reports if it suspects illegal recruitment activities. POLOs monitor employer’s compliance mainly through “informal interviews.” Beyond that, POLOs encourage workers to inform them of any employment-related problems through phone calls or in-person visits.⁶⁹

The lack of a formal monitoring system abroad is not just a function of personnel constraints (according to Sto. Tomas, POLO personnel are

“underpaid and overworked”) but a reflection of the legal limitations of one state imposing its rules on the citizens of another state. Monitoring would not be as critical an issue if destination countries covered migrants’ labor rights. Unfortunately, this is not the case in places like Saudi Arabia, Hong Kong, and Taiwan, where many Filipinos are deployed.

Cases arising from contract and other violations are settled by workers, employers, and agencies through grievance machinery.

3. Hearing and Adjudicating Complaints

Cases arising from contract and other violations are settled by workers, employers, and agencies through grievance machinery. POEA

exercises original and exclusive jurisdiction to hear and decide all cases that are administrative in character and involve violations of recruitment rules and regulations. This includes unlawful fees collected from workers and failing to renew a recruiting license.⁷⁰

Conciliation takes place at embassies and consulates and at POEA's conciliation office. In 2007, POEA handled more than 3,000 cases via voluntary conciliation, 96 percent of which were settled by the year's end. Voluntary conciliation means the complainant agrees to try and resolve issues amicably before a POEA conciliation officer, not through an adjudicator. POEA sees voluntary conciliation as an effective way to unclog the docket system.

Administrative cases not settled during the conciliation process advance to POEA's adjudication office. Monetary claims are filed and decided through arbitration by the National Labor Relations Commission (NLRC), a separate agency under DOLE.

Although POEA may also initiate investigations based on information received from any person, a typical case starts with a migrant filing a complaint with a POEA hearing officer or adjudicator. The investigation is usually short and nonlitigious. Although the parties involved are assured of due process, the technical courtroom rules of evidence and procedure do not apply. The POEA

The majority of cases are against recruitment agencies.

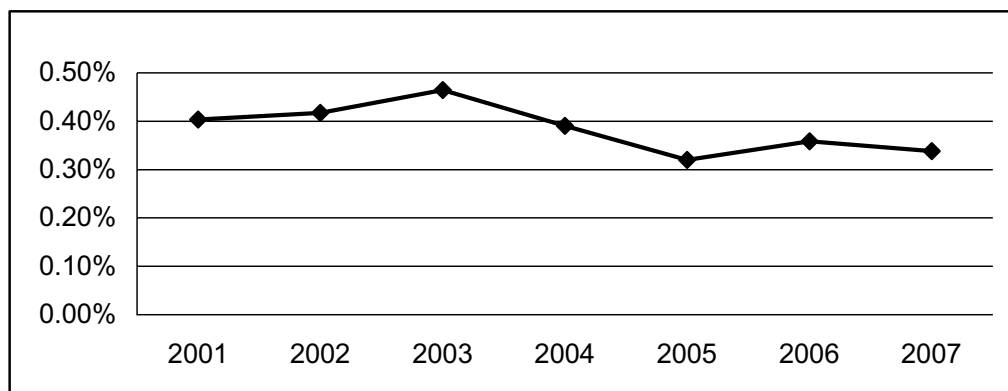
administrator makes his decision based on the hearing officer or adjudicator report. If the charge is proven, an erring agency may see its license suspended or revoked while employers and workers found to be at fault may face disciplinary action or could be blacklisted. Appeals against the decision may be made to the secretary of labor. From there, a worker, agency, or employer can appeal to the Court of Appeals.

The majority of cases are against recruitment agencies. For instance, of the cases POEA handled in 2007, 59 percent were complaints about recruiters, 30 percent were about workers, and the remaining 11 percent were about employers. About 78 percent of cases pending before POEA involved excessive placement fees. Indeed, in the first nine months of 2007, 15 agencies were ordered to close for violating the placement policy.⁷¹

The number of new violations filed with POEA has varied over the years. In 2007, POEA received 3,642 new cases, up just 4 percent from 2001 though the caseload has varied in that time period. Since the same six-year period also saw a 24 percent increase in annual deployment, this may suggest fewer violations if deployment figures are taken into account. Indeed, the proportion of new cases received over annual deployment has declined since 2001 after peaking in 2003 (see Figure 5).

Still, the number of cases filed with POEA is very small, averaging only 0.4 percent of annual deployment in the last seven years.

Figure 5. Proportion of New Adjudication Cases over Annual Deployment, 2001 to 2007



Source: Philippine Overseas Employment Administration.

This suggests two possible reasons: either violations are not as rampant as sometimes portrayed in the media, or POEA's grievance machinery is not a worthwhile option for many aggrieved parties, especially workers. A 2004 survey by the Scalabrini Migration Center suggests the latter. Migrants are generally reluctant to file charges and "would rather not file a case for fear of prejudicing their chances abroad." The study suggests that filing a case is a migrant's last recourse, appealing only to those who have lost considerable amounts of money and are unable to go abroad.⁷²

In 2007, POEA handled more than 6,000 cases at its adjudication office, almost 40 percent of which were cases pending from previous years. About half of these cases were acted upon or settled by the end of 2007, a 30 percent decline in the disposition rate from a year earlier. POEA attributed this decrease to insufficient numbers of employment adju-

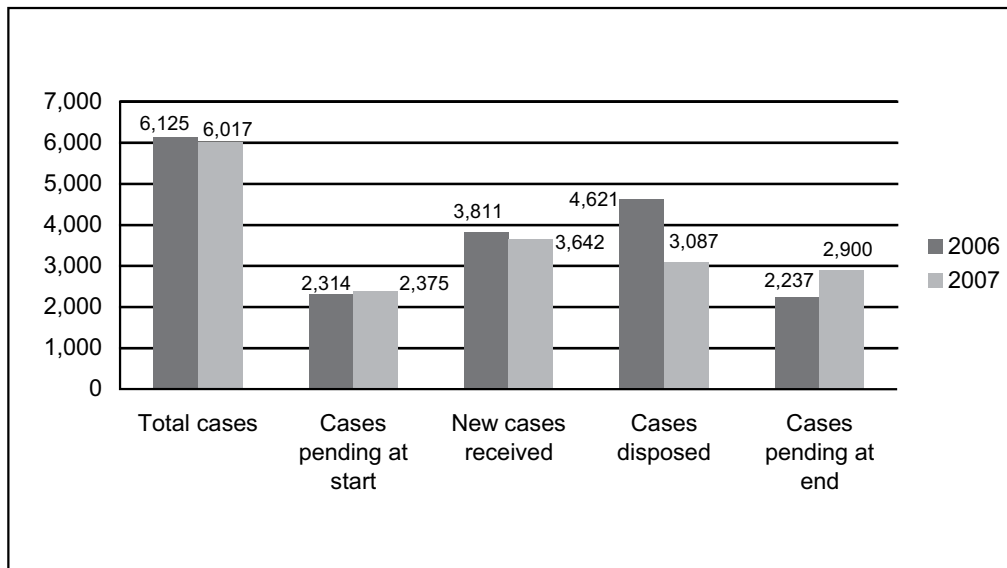
dicators (see Figure 6). In 2007, 448 workers received 7.3 million pesos (US\$162,200) in compensation from agencies.

Dealing with Illegal Recruitment

In 1987, POEA became responsible for policing illegal recruitment activities, such as hiring without proper job orders. Before then, government efforts were mostly ad hoc, with task forces regularly created and disbanded. POEA's anti-illegal recruitment campaign is tasked with the following:⁷³

- providing legal assistance to victims of illegal recruitment and related cases
- assisting in the prosecution of suspected illegal recruiters
- conducting special operations, such as surveillance of persons and entities suspected of engaging in illegal recruitment
- administering information and education campaigns

Figure 6. Disposition of Adjudication Cases, 2006 and 2007



Source: Philippine Overseas Employment Administration, Accomplishment Report 2007.

In 2007, POEA handled 1,624 cases against illegal recruiters, up 8 percent from the previous year. POEA also closed nine establishments, arrested 32 individuals, and forwarded 301 cases for preliminary investigation to the city and provincial prosecution offices (see Table 1).

A 2006 COA audit noted a delay in POEA's processing of these cases. Out of the 510 active cases in 2006, for instance, only 74 (15 percent) met the required processing time of four days, while the rest incurred delays of five to 38 days. COA's interviews with adjudicators revealed the primarily administrative nature of delays, such as difficulty in immediately confirming whether the person or agency is actually licensed.⁷⁴

The high proportion of pending cases also concerned COA. In 2007, 71 percent of the cases handled were actually pending from previous years. POEA disposed of 339 cases by the end of the year, a disposition rate of just 21 percent. The COA audit revealed the following as causes of delay:⁷⁵

- complainant failed to pay filing fees
- complainant lost interest
- additional meetings to clarify discrepancies in documents
- complainant was no longer in the country
- lack of resources (computers and supplies)
- higher-priority duties of attending legal officer

Indeed, a COA review of some of the cases recommended for archiving or termination

Table 1. Status of Illegal Recruitment Cases, 2006 to 2007

Case status	2006	2007
Cases handled	1,504	1,624
Cases pending at the start	992	1,154
New cases received	512	470
Number of complainants involved	1,135	1,057
Cases disposed	350	339
Cases pending at the end	1,154	1,285
Disposition rate	23.27	20.87
Persons arrested	50	6
Establishments closed	12	9

Source: Philippine Overseas Employment Administration, 2007 Annual Report.

revealed that for some complainants, especially those from the provinces, the “hassles of complying with the requirements” are insurmountable barriers.⁷⁶

Recognizing these problems, POEA started an incentive program to encourage victims and witnesses of syndicated or large-scale illegal recruitment to participate in prosecuting such cases. Under the new ruling released in December 2007, victims and witnesses who work with the government are entitled to the following:⁷⁷

- free legal assistance
- financial assistance, including payment of docket fees, subsistence and transportation allowance, and other funding depending on availability
- welfare assistance, such as help in

finding local employment or overseas employment via POEA’s Special Hiring Program

- free skills training

At this early stage, the incentive program’s impact is difficult to gauge. This renewed focus on providing financial and welfare assistance, however, is clearly a step in the right direction.

4. A Velvet Hand with an Iron Glove?

In 2007, POEA issued almost 1,000 orders against an unknown number of agencies, suspending or cancelling the licenses of some. Employers and workers who violated regulations were banned from participating in the recruitment process either temporarily or permanently depending on the nature and number of violations.

Erring Agencies: “Hard to Enter, Easy to Go” POEA’s “hard to enter” policy is coupled with an “easy to go” approach. Depending on the nature of the violation, an agency either gets a reprimand, a suspension order, or an outright cancellation of its license.

Administrative offenses are classified into serious, less serious, and light. For instance, under new rules imposed in 2003, overcharging recruitment fees and deploying underage workers are considered serious violations and are sufficient reasons to revoke the license of even a first-time offender. In other offenses deemed less serious, such as collecting fees without appropriate receipt, POEA suspends the license for two months to a year on the first and second offenses and revokes the license only on the third offense.⁷⁸

Some aspects of POEA rules discourage compliance. For instance, POEA allows agencies

POEA’s “hard to enter” policy is coupled with an “easy to go” approach.

to pay a fine in lieu of suspension. Once a fine is paid — calculated at 10,000 pesos (US\$200) for every month of suspension — agencies can resume operations.⁷⁹ Between 2001 and 2007, POEA collected 64 million pesos (US\$1.4

million) from agencies that opted to pay a fine rather than face suspension.⁸⁰

This rule’s impact on agency compliance concerns COA.⁸¹ It concluded that the practice is “not effective in deterring commission of violations.” The review found that a number of

agencies that paid fines in lieu of suspensions are repeat violators. The fine is small enough that agencies can easily recover financially. For COA, as long as this practice continues, workers cannot be “fully protected.”⁸²

POEA data reveal that between 2001 and 2007, aggrieved workers received 38 million pesos (US\$844,400) in monetary awards from agencies — a very small amount given that workers are not able to collect the majority of awards. Of the 439 writs of

execution POEA enforced in 2007, only 20 percent (112) were returned fully satisfied; 73 percent were not satisfied at all.⁸³ Indeed, a COA examination of the records of 49 recruitment agencies

between January 2006 and June 2007 found unsatisfied claims ranging from 2,500 pesos (US\$56) to 5.3 million pesos (US\$117,800) or a total of 22 million pesos (US\$488,900).⁸⁴

POEA attributes this problem to the exhausted and unreplenished surety bonds and escrow deposits of the concerned agencies. Given that these deposits are a central requirement for receiving a license, it is surprising that POEA does not consider failure to maintain them a serious offense. An agency has to be caught a third time not maintaining its accounts before POEA can cancel its license.

POEA says it is contemplating abolishing the required surety bond of 100,000 pesos (US\$2,200) and increasing the escrow deposit from 1 million pesos (US\$22,200) to

Some aspects of POEA rules discourage compliance.

1.5 million pesos (US\$33,300). Even if this ruling takes effect, COA cautioned the higher escrow amount may still not be sufficient to cover workers' monetary claims.⁸⁵ However, COA did not offer any recommendations.

Another issue of great concern is the delay in processing recruitment violation cases with most taking longer than the deadline of 90 days. A COA review of the Recruitment Violation Track Records of 48 recruitment agencies revealed that of the 745 POEA decisions from January 2005 to May 2007, only 10 percent were issued within 90 days while the rest were decided after an average of 233 days.⁸⁶ In a response to the COA review, POEA officials argued that the time frame prescribed under current POEA rules and regulations is "too short to dispose/resolve a case." POEA is considering amending the rules by increasing the prescribed time frame to 190 days.⁸⁷ However, this approach will not shut down recruiting agencies that continue to commit the same violations.

Foreign Principals: Imposing State Rules beyond Borders

According to POEA rules, foreign employers or principals who violate the rules may be suspended or disqualified from hiring Filipino workers again. Among the offenses or grounds upon which foreign employers or principals may be held accountable:⁸⁸

- defaulting on contractual obligations to the migrant worker and/or its Philippine agent
- gross violation of laws, rules, and regu-

- lations on overseas employment
- gross negligence leading to serious injury or illness or death of the worker
- grave misconduct
- conviction of an offense involving moral turpitude
- any other case analogous to the foregoing

Beyond disqualification, however, POEA has no other recourse. Since recruitment agencies are jointly liable with foreign employers for monetary obligations, the victim's only option is to file a case in

the host country against the employer and/or to pursue the Filipino agency for monetary compensation. Name hires, or those who found employment on their own without assistance from an agency,

have even less protection since the foreign principal is beyond the government's jurisdiction. According to Sto. Tomas, "Dealing with uncooperative foreign employers almost always becomes a complicated diplomatic negotiation."⁸⁹

In its 26 years, POEA has instituted rules and regulations with a sophistication that has no rivals in the developing world.

V. Challenges at Home and Abroad

In its 26 years, POEA has instituted rules and regulations with a sophistication that has no rivals in the developing world. Its long and rich experience suggests that develop-

ing countries can actively engage in a more systematic and legal deployment of temporary workers abroad. The Philippine model, however, has flaws. Serious challenges await other developing countries that might be thinking of creating their own version of POEA.

Three of the key challenges involved are crafting a balanced set of regulations that maximizes legal deployment without sacrificing protection, building state capacity, and addressing the limitations imposed by the international nature of migration.

Balancing Interests through Regulation

Deploying temporary workers while ensuring worker protection requires governments to adopt enforceable regulations that recognize realities on the ground. In a global employment market where stakes are high, cumbersome and rigid regulations can easily breed corruption and abuse, force workers and agencies out of the legal system and into irregular channels, and even price workers out of a very competitive global labor market.

For instance, after POEA introduced more stringent requirements for domestic workers in 2006, deployment of new hires dropped 56 percent. This translates to about 40,000 individuals who were kept from taking domestic work abroad. Migrant organizations are concerned that the policy had the unintended effect of forcing these migrants to take the irregular route.⁹⁰ Indeed, POEA has seen an increase in domestic workers attempting to

leave the country under a different occupation or as tourists to bypass the new requirements.⁹¹ POLOs have also reported instances of domestic workers willingly signing new contracts with lower salaries than what POEA prescribes.⁹² Since the new ruling also banned agencies from charging placement fees and required predeployment training, some migrants allege that unscrupulous agencies are now jacking up the training cost to recover some of their lost income.⁹³ POEA officials have said they are aware of these unintended consequences and are closely monitoring the ruling's impact.⁹⁴

Attempts to adopt stronger requirements for agencies could have similar unintended effects. In December 2007, the POEA board gave then Labor Secretary Arturo Brion blanket authority to approve agency license renewals. Brion introduced a new requirement that allowed POEA to suspend the renewal of agencies with even a single pending labor case. In the first three months, 50 applications for renewal were suspended, drawing the ire of the recruitment industry. The ruling was eventually overturned in June 2007 after Marianito Roque replaced Brion. Fears over the ruling's impact on deployment figures reportedly affected the POEA board's decision to revert to previous practices.⁹⁵

Another recently overturned POEA ruling concerns direct or name hires, who have less recourse to get compensation in case of abuse and malpractice. Under the ruling, POEA would have required all employers to register

with POLOs and pay a US\$5,000 repatriation bond and a performance bond equivalent to three months' salary.⁹⁶ The ruling was suspended within a month after drawing much criticism from current and prospective migrants who feared losing jobs to migrants from countries that do not demand these additional requirements. Although many countries favor Filipino workers over workers from other countries because of their work ethic, English skills, and training, the workers correctly understand that their reputation cannot compete with cheaper labor from elsewhere.

Rulings touching on fees and bonds are especially sensitive issues. For instance, even after a casual reading of the COA audit mentioned earlier, it is easy to see the rationale for increasing escrow requirements. Deputy Administrator Hans Leo Cacdac of the Licensing and Regulation office, however, cautioned that such changes must be based on solid empirical data and analysis, not only to better stand public scrutiny but to limit unintended effects. As Cacdac put it, "The last thing the POEA wants to do is to ease prospective applicants out of the legitimate market."⁹⁷ Ultimately, coming up with the recipe that perfectly balances the sometimes competing needs of large-scale deployment and worker protection requires an arduous process of trial and error.

Building State Capacity

Rules and regulations are only as good as the capacity of institutions tasked to imple-

ment them. Building institutional capacity, especially for organizations like POEA with expansive and multiple roles, presents an enormous challenge. Effective regulation is not just a matter of will but of capacity. The POEA experience points to investing in personnel and creating partnerships as the two elements most critical to capacity building.

1. Investing in Personnel

Manpower Complement

Interviews with various former and current high-level POEA officials reveal an agreement in one area: the need to invest more in personnel both within POEA and at POLOs abroad.

Almost a quarter (116) of the 510 positions within POEA are vacant and have remained so for a number of years. The Philippine government has a nationwide hiring freeze for budget reasons which prevents POEA from expanding its limited workforce except for very critical positions. This is especially difficult for POEA since many employees are expected to retire soon. In addition, the agency has to compete for talent in a tight local labor market partly due to high-skilled emigration. The deputy administrator in charge of personnel, Carmelita Dimzon, laments the difficulty of filling critical positions such as lawyers and arbitrators whom the private sector or other government agencies quickly poach. Many POEA employees have resigned because, quite interestingly, they found jobs abroad.⁹⁸ Clearly, POEA may be a victim of its own success.

Table 2. Number of POLO Personnel and Temporary Workers by Destination, 2006

Country/city	POLO personnel	Estimated stock of temporary workers	Ratio of temporary workers to POLO personnel
Asia			
Brunei	8	22,498	2,812
Hongkong	15	119,584	7,97
Macau	2	8,260	4,130
Korea	7	24,484	3,498
Malaysia	6	104,296	17,383
Singapore	8	54,480	6,810
Japan	7	133,831	19,119
Taiwan	19	99,067	5,214
Middle East			
Saudi Arabia	50	823,700	16,474
Riyadh	18	634,100	35,228
Unaizah	6	no data	no data
Alkhobar	10	no data	no data
Jeddah	16	189,600	11,850
United Arab Emirates	21	318,984	15,190
Abu Dhabi	10	175,391	17,539
Dubai	11	110,005	10,000
Kuwait	18	95,500	5,306
Bahrain	6	26,949	4,492
Oman	6	22,000	3,667
Qatar	5	84,914	16,983
Lebanon	6	23,012	3,835
Israel	4	7,300	1,825
Jordan	5	11,160	2,232
Libya	5	7,158	1,432
Europe/Americas			
Greece	3	20,450	6,817
Switzerland	2	1,978	989
Italy	10	7,014	701
United Kingdom	4	80,000	20,000
Belgium	2	240	120
Spain	3	N/A	N/A
Canada	2	16,704	8,352
US Commonwealth of the			
Northern Mariana Islands	5	N/A	N/A
United States	1	95,514	95,514
Total	230	2,209,077	9,605

Source: Commission on Audit, Sectoral Performance Audit Report on the Overseas Workers Welfare Program of the Government, CY 2005 and 2006; Commission on Filipinos Overseas, Stock Estimate, 2006.

POEA's concerns over personnel extend beyond its own organization. As already discussed in length, POLOs implement a huge chunk of POEA's workload, from registering employers to taking in work-related abuse cases. As Dimzon put it, "POLO operation affects our operation. How they are doing their job matters to us greatly."⁹⁹

Based on available reports submitted by the departments of Labor and Foreign Affairs to the Philippine Congress, there were 34 POLOs with a total staff of 230 as of 2006.¹⁰⁰ The Commission on Filipinos Overseas, another government agency, estimates that in the same year, there were over 2 million Filipino temporary workers in countries where POLOs are located.¹⁰¹ The ratio of temporary workers to POLO personnel varies greatly, from just 120 workers per POLO employee in Belgium to over 95,000 in the United States (see Table 2). These two extremes, however, do not tell the full story. For instance, despite the unusually high ratio, the United States is the least of the Philippine government's concern because of the relatively few abuse cases there. The biggest challenges lie in destinations where workers are more vulnerable due to the nature of their work and/or the type of protection they receive from local labor laws.

For instance, POLOs maintain and operate 20 Filipino Resource Centers (FRCs) in countries with large concentrations of Overseas Filipino Workers (OFWs). Table 3 shows the personnel distribution at FRCs cross-referenced with the number of admitted OFWs and the number of

welfare and repatriation cases they received. Clearly, many POLOs are understaffed and overworked. In Taipei, Taiwan, for instance, there is one FRC employee for every 6,000 cases received in 2006.

Sto. Tomas, along with other officials, agreed that there should be more labor attachés, especially in areas with a high number of abuses. However, existing laws do not mandate a standard personnel-to-worker ratio; the law only requires POLOs to have a labor attaché in areas with more than 20,000 Filipino workers.

Budget and Spending

To address the personnel issue, POEA and POLOs need bigger budgets — a difficult sell in a cash-strapped developing country like the Philippines. In 2006, the largest budget allocation, about 315 billion pesos (US\$7 billion) or 41 percent, went to paying interest on the national debt, a problem that plagues many heavily indebted countries.¹⁰³ The departments of Labor and Foreign Affairs, which house POEA, POLOs, and dip-

lomatic posts, spent a total of 9.9 billion pesos (US\$220 million) or 0.92 percent of total government expenses in 2006 (see Table 4). In contrast, the Education and Defense departments respectively claimed 15 and 10 percent of the 2006 budget. The Labor and Foreign Affairs departments have always received a relatively small allocation from

To address the personnel issue, POEA and POLOs need bigger budgets.

Table 3. Number of Personnel at Filipino Resource Centers (FRCs) by Destination and Workload in Key Areas, 2006

	Labor attache	Welfare officer	Social worker	Total manpower	No. of cases received	Ratio of cases to manpower	Workers admitted at FRCs	Ratio of workers admitted at FRCs to manpower	Workers repatriated	Ratio of workers repatriated to manpower
Taipei, Taiwan	1	1	0	2	13,048	6,524	40	20	188	94
Bahrain	1	1	0	2	4,978	2,489	840	420	370	185
Dubai, United Arab Emirates	2	1	1	4	7,826	1,957	1,007	252	709	177
Al Khobar, Saudi Arabia	1	1	0	2	3,900	1,950	282	141	1,409	705
Taichung, Taiwan	1	1	0	2	2,248	1,124	**	**	200	100
Lebanon	1	1	1	3	3,030	1,010	845	282	242	81
Jordan	1	1	0	2	1,881	941	885	443	116	58
Kuwait	2	2	2	6	4,133	689	3,077	513	1,476	246
Kaoshiung, Taiwan	1	1	0	2	1,367	684	**	**	65	33
Qatar	1	1	0	2	1,077	539	667	334	332	166
Oman	1	1	0	2	1,011	506	585	293	216	108
Hong Kong, China	2	2	1	5	2,221	444	21	4	*	**
Riyadh, Saudi Arabia	1	4	1	6	2,380	397	1,558	260	1,189	198
Abu Dhabi, United Arab Emirates	1	1	1	3	1,058	353	793	264	307	102
Jeddah, Saudi Arabia	2	2	1	5	1,560	312	388	78	141	28
Libya	2	0	0	2	326	163	73	37	166	83
Malaysia	1	2	0	3	254	85	149	50	148	49

Source: Commission on Audit, Sectoral Performance Audit Report on the Overseas Workers' Welfare Program of the Government, CY 2005 and 2006.

the national government, which is surprising given migrant workers' importance to the Philippine economy.

As one of the top earners for the government. . . POEA consistently gives more than it receives.

Deputy Administrator Dimzon, along with other top POEA officials, recognizes the financial need. As of this writing, her office is conducting a manpower audit to

determine POEA's personnel needs. Dimzon hopes the results will convince the Congress to allocate more money to POEA's budget and lift the agency's hiring freeze.¹⁰⁴

Actually, POEA does not need to depend on state allocation and may actually be self-sustaining. As one of the top earners for the government, mainly through processing fees, POEA consistently gives more than it receives. In 2007, POEA generated an income of 408 million pesos (US\$9.1 mil-

Table 4. Government Operating and Financial Expenses by Department, 2006

Budget area	Pesos (in billions)	Percentage of total
Interest expenses	315	41.4
Others	165.1	21.7
Education	116	15.3
Defense	76	10
Interior and local government	65	8.6
Health	13	1.7
Foreign affairs	5.8	0.8
Labor and employment	4.1	0.5
TOTAL	760	100

Source: Commission on Audit, 2006 Annual Financial Report of the National Government.

lion), almost double the 2007 budget allocated by the national government. In the last five years, it has contributed 485 million pesos (US\$10.8 million) to the national treasury (see Figure 7).¹⁰⁵

There is even a case to be made that POEA's income should remain within POEA. A Ministry Order released following the creation of POEA required "all fees and charges collected ... (to)...accrue to a Special Trust which shall be used exclusively for the promotion of the objectives of the Administration."¹⁰⁶ Currently, this Special Trust does not exist.

2. Creating Partnerships: Sharing (and Shedding) the Load

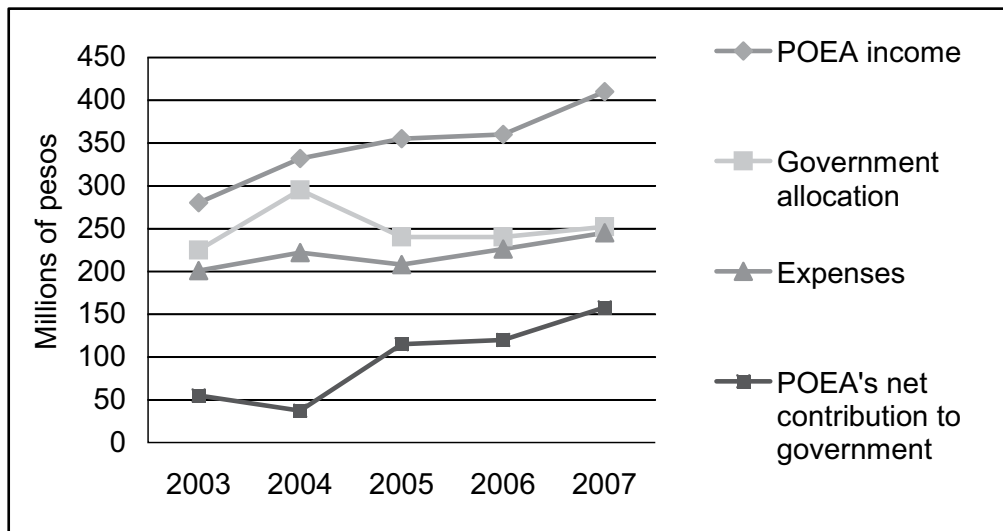
Capacity building also requires strengthening relationships with external actors both from the public and private sector. By sharing the

load, customer-oriented institutions like POEA can substantially improve service delivery.

For instance, POEA works closely with Local Government Units (LGUs), the administrative offices at the city and provincial levels, especially on the area of illegal recruitment. In 2007, about 66 percent of POEA's Pre-Employment Orientation Seminars (PEOS), which teach prospective migrants about the culture, laws, and customs in destination countries, were held in 10 regions. POEA also signed 22 Memoranda of Understanding (MOUs) with LGUs that same year to ensure the seminars' continuous and regular implementation in the provinces.¹⁰⁷

POEA also developed an ingenious set-up with a select group of recruiting agencies. Each year, POEA ranks agencies' performance based on a number of criteria, such

Figure 7. POEA's Key Financial Indicators, 2003 to 2007



Source: Commission on Audit, Annual Audited Report, Detailed Statement of Income and Expenses, 2003-2007.

as deployment figures, foreign exchange earned, compliance with rules and regulations, and provision of welfare assistance to

workers. Agencies topping this list can have their licenses extended without submitting the usual documentation and can prepare recruits' documentation in-house, among other "operational flexibilities." These agencies are provided with preapproved overseas employment clearances, which they can give to their recruits.¹⁰⁸ By essentially allowing a select,

Also essential to institutions like POEA is a healthy relationship with migrants and the civil-society organizations that represent them.

reputable group of agencies to process their own papers, POEA frees up its employees so they can attend to other matters.

Also essential to institutions like POEA is a healthy relationship with migrants and the civil-society organizations that represent them. Civil-society groups are not just an excellent source of talent and technical expertise; their cooperation with a government agency like POEA enhances the agency's credibility and lends legitimacy to its rulings.

In 2001, Sto. Tomas, then labor secretary, formed a Consultative Council on Overseas Filipino Workers (CCOFW), a forum for key government officials and heads of select migrant organizations to discuss issues concerning Filipino migrant workers. With POEA

as the secretariat, CCOFW initially convened on a fairly regular basis but lost momentum after a few years. Carmelita Nuqui, president of the Philippine Migrant Rights Watch (PMRW), a network of migrant nongovernmental organizations (NGOs), suggests that participants from both sides lost interest due to disagreements about the scope of the council's agenda and difficulties reaching consensus on key policy issues. Despite its limitations, CCOFW had one critical accomplishment during its active days: it allowed government officials and NGO leaders to communicate directly, if not necessarily effectively, with each other. With prodding from PMRW, the council met again in April 2008 after a two-year hiatus.¹⁰⁹ Yet its future remains uncertain. Consultative councils like CCOFW are potentially effective tools, but they are difficult to sustain in the long run. Without a legal mandate, there is no incentive to keep disagreeing parties at the table.

Formal arrangements, preferably rooted in law, would be a more effective way to engage migrants. As already indicated, POEA has three migrant representatives on its six-person governing board. However, POEA needs to pay careful attention to ensure the representatives are truly connected to their constituencies. Some migrant organizations say the representatives have failed to adequately represent the needs and concerns of OFWs. Some have also questioned the lack of transparency and clear guidelines in the nominating process.¹¹⁰

Addressing Limitations

Even if governments could perfectly balance regulations and build institutional capacity to the highest level, institutions like POEA would still face limited control over their workers abroad, the main challenge of international migration. Expanding the country's options despite its limited control requires multiple tactics, described below.

1. Limited Control

Despite globalization, the world remains the playground of nation-states, each determined to protect its sovereignty. The Philippines, like any other state, has limited options when it comes to dealings with other states and their citizens. Once a Filipino worker leaves the Philippines, he or she will be at the mercy of the laws, traditions, and customs of the destination country. POEA's mandate is difficult because it must manage a global movement over which it does not have complete control.

For instance, most countries with a huge proportion of temporary migrant workers do not include certain groups of migrant workers in their labor laws, including Bahrain, Singapore, Lebanon, and Kuwait. The 2005-2006 POLO report in Kuwait revealed how "even simple labor disputes ... were being brought to the police stations which are under the supervision and control and of the Ministry of Interior as there is no administrative mechanism for the resolution of these cases." According to the report:

... the OFWs’ only recourse is to escape and seek assistance of POLO. On the other hand, should they escape, their employers can file an absconding case with the police that will render them as illegal workers and be the basis for their detention. The Arabic version of the contract is the one legally binding in case of discrepancy between the Arabic original and the translated English version.¹¹¹

POLOs in Lebanon claim that the Lebanese Ministry of Labor does not settle cases between employers and domestic workers. Furthermore, the Lebanese government does not honor contracts verified at the embassy, a practice that reportedly leads to side contracts that the recruiting agencies, employers, and workers sign although these contracts usually stipulate salaries below the minimum wage.¹¹²

In Qatar, contracts that skilled and nonskilled workers sign in the Philippines are not honored. The employers require workers to sign a new contract for a different position, wages, and entitlements. As in other Arab countries, contracts have to be in Arabic, with the Arabic version serving as the official version.¹¹³

In short, POLOs alone cannot resolve contract violations. The Philippines must rely on the destination country’s legal provisions and procedures and the employer’s willingness to cooperate with the embassy. Even the obvious solution of increasing the number of Filipino staff overseas does not always work. The destination country may invoke a reciprocal diplomatic quota, which means the Philippine

presence can only be the same size as the destination country’s diplomatic presence in the Philippines.¹¹⁴

2. *Expanding the Options*

POEA’s solution to limited control is three-fold: (1) form strategic alliances with destination countries through bilateral agreements, MOUs, and other arrangements; (2) increase deployment to “migrant-friendly” destinations; and (3) shift deployment from low-skill to high-end or high-value occupations.

Pursuing Partnership Agreements

In the past 40 years, the Philippines has signed 82 bilateral labor agreements (BLAs) involving 59 countries; 35 percent of those countries are in Europe. The Philippines has the most BLAs with Canada (7), Jordan (3), Korea (3), Switzerland (3), and the United Kingdom (3). More than half of these agreements recognize Seafarer’s Certificates (44) while the rest fall into two categories: social security (10) and cooperation on employment, welfare, and general labor issues (14).¹¹⁵

POLOs alone cannot resolve contract violations.

BLAs on Seafarer’s Certificates validate the Philippines’ compliance with international standards and essentially allow Filipino seafarers to board ships of the signatory state. Social security agreements provide Filipino workers with pensions, disability, or retirement coverage. Employment, welfare, and general labor cooperation agreements are

Table 5. Labor Negotiations POEA Contributed to in 2007

Date	Country	Type of agreement
Proposed February 2007	Croatia	BLA
Proposed February 2007	Qatar	MOA on the additional protocol to labor agreements
Signed April 2007	United Arab Emirates	MOU in the Field of Manpower
Proposed April 2007	Singapore	MOU
Proposed June 2007	Alberta, Canada	MOU on Labor and Human Resources Development
Proposed June 2007	British Columbia, Canada	MOU on Cooperation in Human Resources
Proposed June 2007	Taiwan	MOU on the Special Hiring Program and other issues
Proposed August 2007	Malaysia	MOU on Migrant Workers
Proposed September 2007	Azerbaijan	MOU on labor cooperation
Proposed October 2007	Manitoba, Canada	MOU

Source: Philippine Overseas Employment Administration, 2007 Annual Report (Pasay City: POEA, 2007).

more detailed and usually cover a wider range of protection issues.¹¹⁶ The Philippines expects to sign more BLAs in the future.

POEA either participates in the actual drafting of the agreements or, at the very least, provides technical input, such as background information on labor laws and market demand at the destination. In 2007 alone, POEA participated in at least 10 labor negotiations, most of which are MOUs or Memoranda of Agreement (MOAs) (see Table 5).¹¹⁷ In the absence of international protocols, formal agreements remain the “intervention of choice” among nation-states regardless of whether they are binding or not.¹¹⁸ For instance, although many of the Philippines’ agreements are MOUs and MOAs and are not legally binding, they nonetheless remain effective and less threatening tools that can “open doors” for a continuing discussion, according to many current and past government officials.¹¹⁹

Indeed, almost all MOUs and MOAs call for creating a joint committee that meets on a periodic basis. These joint committees, usually composed of cabinet-level officials, monitor the agreements’ implementation.

Tapping into More Migrant-Friendly Destinations

Another solution to limited control is diverting deployment to politically stable destinations with stronger migrant labor laws and shared customs and practices. Toward this end, POEA has conducted marketing missions to new temporary worker markets, such as Guam, Palau, Australia, Canada, and New Zealand. POEA also has courted and hosted foreign delegations from the booming Canadian provinces of Alberta, British Columbia, Manitoba, and Saskatchewan.

The marketing efforts seem to be paying off. For the past three years, the number of processed contracts to nontraditional markets,

particularly Canada, Italy, and the United States, has increased markedly (see Figure 8).

However, this trend represents a very small portion of total deployment. In 2007, for instance, seven of the top ten destinations for new hires were still traditional markets, with Saudi Arabia, the United Arab Emirates, and Qatar topping the list.¹²⁰ The continuing economic boom in the Middle East will likely mean increased demand in this part of the world.

Shifting the Focus to High-End Workers

POEA has been working to deploy more workers in high-end or high-value occupations since most disputes over recruitment and contract violations involve workers in vulnerable and low-skilled sectors, particularly domestic work. The Philippines has a

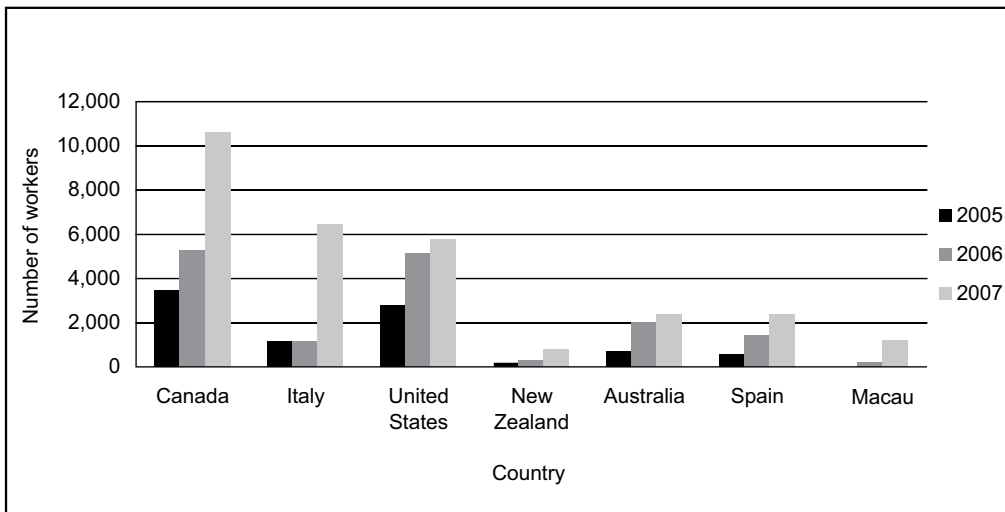
deep pool of high-skilled and semi-skilled workers. Philippine government statistics suggest that about 2.4 million Filipinos have been annually enrolled in colleges and universities since 1999;

nearly a quarter are taking courses in the medical field, especially nursing.¹²¹ POEA's solution is to open up the mid-to-high-skilled labor market to more Filipino workers,

adding to the stream of highly skilled Filipinos who already leave the country without government intervention. For instance, seven of the nine MOUs signed in the last two years specifically opened up opportunities for skilled workers.

POEA has been working to deploy more workers in high-end or high-value occupations.

Figure 8. Number of Processed Contracts to Key Destinations, New Hires, 2005 to 2007



Source: Philippine Overseas Employment Administration, Number of Processed New Hires by Country of Destination.

The deployment numbers are encouraging. Figures from 2007 revealed that professionals and skilled workers, such as nurses, doctors, engineers, production workers, and engineering technicians, accounted for 75 percent of the almost 200,000 new hires, an increase of almost 7 percent from previous years.¹²²

Top policymakers within POEA believe the Philippine system has “matured enough” and that it should aim for higher-skilled occupations.¹²³ However, this approach has problems. First, upgrading skills is difficult to sustain, especially in the long run. In 2007, the Philippines failed to meet the demand for nurses in Saudi Arabia, a long-time client, due to “low supply of qualified applicants.”¹²⁴

Second, closing the door to low-skilled migration could negatively impact poorer households and the country’s progress in alleviating poverty. Contributions coming from this segment are channeled to the relatively poorer communities and households to which they

The deployment numbers are encouraging.

belong. Poverty alleviation based on their remittances is the single most reliable economic impact of migration. According to the most recent government data, in 2006, 33 out of 100 Filipinos, or

27.6 million people, were considered poor.¹²⁵ It seems that concerns over the development impact of shifting deployment from low- to high-skilled workers did not figure much in POEA’s policy deliberations — quite surprising given that development was the main rea-

son for the creation of the overseas employment program.

Finally, since many low-skilled migrants are women, this approach would likely limit women’s access to legal migration channels.

In 2007, for the first time in nearly 20 years, men comprised the majority of deployed new hires. Interestingly, POEA considers this as one of its three greatest accomplishments over the past year

because this trend signifies a shift away from low-skilled and/or vulnerable occupations.¹²⁶

. . . closing the door to low-skilled migration could negatively impact poorer households.

VI. Conclusion

For more than 25 years, POEA has shown that developing countries like the Philippines can proactively manage the legal movement of temporary migrant workers. A closer look at POEA suggests it provides a model for many developing countries wishing to take advantage of global labor mobility’s considerable benefits, even though the system has flaws, as POEA’s upper management has acknowledged. These flaws include the inability to adequately monitor workers abroad, regularly inspect recruiting agencies, timely resolve cases against illegal recruiters, share data with POLOs, and establish an adjudication system that migrants with complaints are willing to use. Developing countries keen on emulating the Philippines

must be aware of these flaws, ready to fully fund the government institutions responsible for managing migrant workers, and willing to create partnerships with organizations at home. In other words, they must overcome the challenge of maximizing deployment without sacrificing migrants' welfare.

More than that, however, developing countries must understand they have limited control: migrants work in places where they cannot enforce their domestically focused employment regulations and labor relations. To work more effectively, labor migration has and always will require collective efforts at many levels in both the sending and receiving countries. To act otherwise is to continue the legacy of failed temporary worker programs in which migrants' welfare protection was generally poor and the countries of origin did not improve on either economic or social fronts. Indeed, POEA, as a domestic institution, controls temporary labor migration as best it can by signing bilateral agreements with destination countries, prioritizing such agreements with countries that do a better job protecting workers' rights, and encouraging more skilled migration — though skilled migration at the expense of less-skilled migration comes with risks, such as increased poverty and narrowed channels for female migration.

While the Philippine government receives accolades from the international community for its migration policies, it continues to attract criticism at home. Indeed, one of POEA management's major goals for 2008 is to implement a “comprehensive communica-

tion plan” aimed partly at “removing negative perception about POEA.”¹²⁷ Beyond the challenges already discussed, this perception reflects a much larger problem — how to convert the gains from large-scale overseas employment into concrete development outcomes at home.

The Philippine experience has shown that the connection between migration and development is not as direct as many policymakers would like to think. Tapping the global labor market seems to effectively ease immediate problems at home, such as unemployment and balance of payments crises. However, for many local observers, the Philippine government's overseas employment strategy has yet to fully deliver when it comes to bringing about the kind of development that benefits all households, not just the migrants and their immediate families.

In an ideal scenario, overseas employment would not be an end in itself but a means to a higher end. Many in Philippine civil society say the government has confused a booming deployment system with development. Although far from the panacea it is sometimes purported to be, migration can have a positive impact on key aspects of development, including human capital formation, investments, poverty reduction, macroeconomic stability and, in some cases, even social and political change. But the government has not spent enough energy or money on ensuring that migration benefits all Filipinos, especially in the long run.

In 2007, Filipinos overseas sent home US\$14.5 billion in remittances. According to the Asian Development Bank (ADB), this financial flow bolstered private consumption that year, which in turn helped drive economic growth to 7.3 percent, a 30-year high. Remittances supported key sectors such as retail, transportation, residential real estate, and communications services. ADB cautioned that the Philippines' economic growth is not sustainable and that despite huge remittances from abroad, growth is still expected to slow to 6 percent in 2008. For analysts in the private sector, the country's underlying fundamentals remain weak and require long-term strategies to overhaul¹²⁸ — a concern international financial institutions share.

ADB blamed the Philippines' dismal economic record on a "poor investment climate brought about by macroeconomic instability,

poor infrastructure, excessive regulation, and corruption."¹²⁹ Similarly, the World Bank ranked the Philippines 133rd out of 178 economies in terms of ease of doing business in 2008, down three places from a year earlier. It scored poorly in key indicators such as closing and opening a business, protecting investors, and paying taxes. Unlike other developing countries, the Philippines made no reforms in 2007 to improve its ranking.¹³⁰

Ultimately, the success of institutions like POEA will depend on a sound national development policy to which an overseas deployment strategy may contribute. Remittances, like the other benefits that can accrue from global labor mobility, do not exist in a vacuum. Without a strong development policy at home, maximizing overseas employment benefits will be difficult, if not impossible.

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