



Center for Migrant Advocacy

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STATEMENT

**UPR Pre-session on the Philippines
Geneva, August 30, 2022
Delivered by: Center for Migrant Advocacy**

Presentation of the Center for Migrant Advocacy

This statement is delivered on behalf of the Center for Migrant Advocacy, a non-profit, independent, non-partisan organization that works for the rights and welfare of Filipino migrant workers and their families through policy advocacy, facilitation of assistance to distressed migrants, research, information, education work, capacity building and networking. CMA is a member of the Philippine Alliance of Human Rights Advocates in the Philippines, In the region, it is a member of Migrant Women Forum and Migrant Forum in Asia.

CMA has participated in UPR processes at the national level since the first cycle review for the Philippines in 2008.

Plan of the Statement

This statement addresses the following issues: (1) trafficking in persons, including migrant workers, with a focus on the definition of child labor cum trafficking, and (2) adherence to and implementation of bilateral and multilateral agreements to protect migrants rights.

Statement

1. There is a new law - RA11862 –the Expanded Anti-Trafficking in Persons Act of 2022
 - The law states that the deployment of a migrant domestic worker is considered child trafficking by defining a “child” as a person under 24 years old.
 - This contravenes the UN Convention on the Rights of the Child¹, the UN Convention on the Elimination of All Forms of Discrimination against Women², the ILO

¹ Convention on the Rights of the Child, Article 1 states that “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”
<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

² UN Convention on the Elimination of All Forms of Discrimination Against Women, Article 1 which elaborates on “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and

Convention on Minimum Age³ and the ILO Convention on Decent Work for Domestic Workers⁴, all of which, the Philippines has ratified, which assert that a child is a person under 18 years old

- This also discriminates against migrant domestic workers, many of whom are women, and disempowers women and do not protect their rights.
- We call on the Philippine government to immediately repeal this provision and comply with the UN and ILO Conventions in regard to definition of a child, the minimum age for a worker and to combat discrimination against women migrants.

2. Bilateral and multilateral agreements

- The Philippines leads in forging bilaterals and adhering to multilateral instruments of protection for migrants rights including the ASEAN Consensus on the protection of migrant workers (2017) and the Global Compact for Safe, Orderly and Regular Migration (2018).
- There has been no concrete plan of action and clear mechanism to implement and monitor these bilateral and multilateral agreements.

women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. Article 2f To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>; Further, under CEDAW General Recommendation 26 on Women Migrant Workers, Paragraph 24a recommendation to countries of origin states are urged to lift discriminatory bans or restrictions on migration: States parties should repeal sex-specific bans and discriminatory restrictions on women's migration on the basis of age, marital status, pregnancy or maternity status. They should lift restrictions that require women to get permission from their spouse or male guardian to obtain a passport or to travel (article 2 (f)); https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_2009_WP-1_R_7138_E.pdf

³ ILO Convention on Minimum Age Article 3, 11. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years. The Philippines specified 15 years old as the working age when it ratified C138 in June 1998. https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102970

⁴ ILO Convention 189 on Decent Work for Domestic Workers Article 4 states:

- 1. Each Member shall set a minimum age for domestic workers consistent with the provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and not lower than that established by national laws and regulations for workers generally.
- 2. Each Member shall take measures to ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C189

- We therefore call on the Philippine government to ensure that these bilateral and multilateral agreements
 - Have detailed implementation plan with clear timelines, measurable actions, as well as effective mechanisms for implementation and monitoring; and that migrant workers, employers and other relevant stakeholders are informed about these; and,
 - Onboard and Engage civil society groups in the process, and in the implementation and monitoring of such, consistent with the whole of society principle on international migration governance.

Lastly, as the new government Administration under the new Department for Migrant Workers takes on the issues of migrant workers and their families, we call on the new Philippine government to

- (a) prioritize efforts to address the adverse drivers of migration that compel people to leave, instead of promoting and facilitating more deployment of Filipino migrant workers; and,
- (b) exert sustained efforts to provide viable reintegration and livelihood programs particularly for those displaced by the pandemic.

As the only member State that integrated the GCM in its national legislation, the Philippine government is legally bound to realize the GCM Objectives, particularly 2⁵ and 21.

Thank you.

⁵ GCM Objective 2—Minimize the adverse drivers and structural factors that compel people to leave their country of origin; Objective 21 – Cooperate in facilitating safe and dignified return and readmission, as well as sustainable reintegration. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/451/99/PDF/N1845199.pdf?OpenElement>