

**INPUTS TO THE QUESTIONNAIRE OF THE SPECIAL RAPPORTEUR ON HUMAN**

**RIGHTS OF MIGRANTS ON HOW TO EXPAND AND DIVERSIFY REGULARIZATION MECHANISMS AND PROGRAMS TO ENHANCE THE PROTECTION OF THE HUMAN RIGHTS OF MIGRANTS IN IRREGULAR SITUATIONS**

**24 February 2023**

1. The Commission on Human Rights of the Philippines (the “Commission” or CHRP)[[1]](#footnote-1) hereby submits the following information in response to the Questionnaire of the Special Rapporteur on the Human Rights of Migrants on “How to Expand and Diversify Regularization Mechanisms and Programs to Enhance the Protection of the Human Rights of Migrants in Irregular Situations.”
2. For this submission, the Commission took into consideration local and international reports from government, civil society, the media, and international non-government organizations. The Commission also utilized its own documentation of independent monitoring activities and statements which have undergone the internal deliberations of the Commission En Banc.

**How can regularization processes facilitate the enjoyment of human rights by migrants as well as their cultural, social and economic integration into the host communities**

1. Undocumented or irregular migrants have been identified as a vulnerable group, as they are most exposed to potential or actual violations of their rights. In a comparative migration study conducted in Geneva (Switzerland)[[2]](#footnote-2) between the newly regularized migrant workers, undocumented migrant workers and regular local residents, satisfaction with life is significantly lower among undocumented migrant workers, which is a reflection of their particularly challenging living conditions, including discrimination, limited rights, and uncertainty they face regarding the future.
2. Programs enabling migrants to become regularized can help prevent exploitation in both their living and working conditions. It can also give them access to welfare, social protection and the enjoyment of human rights. Regularization programs can also provide beneficial impacts on host countries such as growth in the labor force, an increase in cultural diversity and the filling of skill gaps in the labor market. Additionally, migrants bring skills and expertise with them, which contribute to the human capital of the host countries. Migrant workers' social security and tax revenue contributions are also essential for the host nation's economic growth.[[3]](#footnote-3)

**Examples of national and regional solutions to legalize the stay for migrants in irregular situations and whether your country has adopted any bilateral, sub-regional, regional, international mechanisms, agreements, frameworks or programs, including in the context of labor migration**

1. Various mechanisms are being pursued by the Philippine government with host countries to expand avenues for regularization of qualified undocumented Overseas Filipinos (OFs). In August 2018, the Philippines and Bahrain signed an agreement on a "flexible visa program," a two-year work and residency permit that is renewable indefinitely. Initially, this visa was only available to low-skilled, skilled, and professional migrants, it was later expanded to household service workers (HSWs). The flexible visa program has regularized approximately 1,000 Filipino migrant workers, mostly HSWs in irregular status.[[4]](#footnote-4) However, Bahrain suspended its flexible visa program in October 2022, five years after its introduction due to labor reforms currently being implemented throughout the country.[[5]](#footnote-5)
2. In Malaysia, around 14,200 undocumented Filipinos were given Philippine passports, paving the way for their successful application for regular status through the Philippine Embassy Special Consular Missions, which began in April 2019.[[6]](#footnote-6)
3. In terms of immigration policy in the Philippines, the departments of Justice, Foreign Affairs, Finance, Labor and Employment, and Environment and Natural Resources; Bureau of Internal Revenue, Bureau of Immigration, Professional Regulation Commission, and National Intelligence Coordinating Agency (NICA) have issued Joint Memorandum Circular (JMC) 001, s. 2019 or “The Rules and Procedures Governing Foreign Nationals Intending to Work in the Philippines.” The JMC aims to harmonize the regulations and policy guidelines governing the provision of documents to foreign nationals intending to work in the Philippines. Such documents include Alien Employment Permit (AEP) by the Department of Labor and Employment (DOLE); Special Temporary Permit (STP) by the Professional Regulation Commission (PRC); Special Work Permit (SWP), Provisional Work Permit (PWP) and 9(g) visa by the Bureau of Immigration (BI); 9(g) and 47(a)2 visa by the Department of Foreign Affairs (DFA); Authority to Employ Alien (AE), and 47(a)2 visa by the Department of Justice (DOJ); and Authority to Hire Foreign National (AHFN) by the Department of Environment and Natural Resources (DENR) - Mines and Geosciences Bureau.[[7]](#footnote-7)
4. However, although JMC No. 001, s. 2019 attempts to harmonize existing entry and work permits of foreign nationals for legal migration, it does not look into irregular migration or pathways for the regularization of the status of undocumented migrants or foreign nationals in the country. The passage of amendments to the Philippine Immigration Act of 1940 may address this gap in the immigration policy of the country provided that it should be responsive to the needs of migrants in irregular situations.
5. A bill was filed during the 18th Congress, entitled “The Philippine Immigration and Homeland Security Act,” which was substituted House Bills 162, 327, 435, 1305 and 1697[[8]](#footnote-8), and approved in August 2017 by the House subcommittee on immigration, naturalization and deportation. It sought to convert the Bureau of Immigration (BI) into a Commission on Immigration to make it more responsive to the needs and challenges of the times.” Similarly, in the Senate during the current 19th Congress, Senate Bill No. 781 or the Philippine Immigration Act of 2022 was filed in July 2022[[9]](#footnote-9) calls for a creation of a Commission on Immigration, with regional immigration offices that are accessible to all citizens in the Philippines. The CHRP is monitoring the status and eventual deliberation of these bills and ensuring human rights standards in the proposed provisions are at par with international norms and include protection of irregular migrants or migrant workers.

**Examples of promising practices, including ad-hoc programs and permanent regularization mechanisms that your country or region has adopted to promote a human rights-based approach to migration**

1. In addition to the above-mentioned bilateral agreement with Bahrain, the Philippine has been negotiating with receiving countries to ensure decent work for OFWs including creation of regular pathways. The Philippines, through the DFA, held a series of joint committee meetings with Qatar’s Ministry of Labor Administrative Development, Labor and Social Affairs for the better protection of OFWs in Qatar. The Philippines also negotiated for the inclusion of the domestic workers sector in its policy of non-requirement of exit visas for departing migrant workers.[[10]](#footnote-10)
2. As of March 2022, the Philippines has signed 54 bilateral labor agreements (BLAs) and five regional/multilateral agreements aimed at the protection and welfare of OFWs. Of these, five countries (Jordan, Kuwait, Lebanon, Saudi Arabia and UAE) have BLAs with the Philippines as well as specific agreements for the deployment and protection of domestic workers.[[11]](#footnote-11)
3. China, Germany, Israel, Japan, Korea, Taiwan, and Canada (Yukon) have agreements for the deployment of employees through a government-to-government arrangement with the Philippines. The Philippines and Israel have specific arrangements as well on the hiring and deployment of caregivers and hotel workers through government-to-government.[[12]](#footnote-12)
4. The implementation and effectiveness of bilateral labor agreements and memoranda of understanding, however, should be monitored and assessed particularly the protection mechanisms that the government declared as the main purpose of such non-binding agreements. There is dearth of data on the positive impacts of BLAs in improving the situation of OFWs, including migrant domestic workers.[[13]](#footnote-13)

**Engagement with civil society organizations, national human rights institutions, and other stakeholders. Provide information of concrete initiatives, actions and programs relating to the regularization of migrants in an irregular situation that have been developed, including jointly, by civil society organizations, national human rights institutions, and other stakeholders in your country**

1. In 2018 and 2019, the Commission, through the Human Rights Center Management Office (HRCMO) and CHR Regional Office IX, conducted joint monitoring missions to check the situation of deportees from Sabah who were temporarily staying at the Department of Social Welfare and Development’s (DSWD) Processing Center for Displaced Persons (PCDP). PCDP serves as a temporary shelter for deportees from Sabah while awaiting their civil documents such as a birth certificate and travel documents to ascertain their identity.
2. Findings show that most returnees from Sabah are migrant workers without legal documents. Despite being undocumented, some of these forced returnees have lived most of their lives in Sabah, where they have established their own families and livelihoods.
3. On 24 July 2020, the national human rights institutions (NHRIs) of Malaysia (SUHAKAM), Indonesia (Komnas HAM) and the Philippines (CHRP), respectively—inked a memorandum of understanding (MOU) to strengthen efforts in addressing statelessness and the protection of the rights and welfare of stateless persons and persons at risk of statelessness in Sabah.
4. Further, in November 2022, the SEANF 19th Annual Meeting and Conference took place in Zamboanga City with the theme, "The Role of NHRIs in Preventing Statelessness and Protecting the Rights of Stateless Persons and Persons at Risk of Statelessness: Perspective from South East Asia.” During the conference, SEANF Chairpersons, delegates, and government representatives discussed the issue of statelessness and other cross-border situations in the region. Also, the CHRP together with the SEANF delegates conducted a site visit to the PCDP in Zamboanga City, through which they were able to assess the situation of stateless, displaced, and undocumented persons in Zamboanga.
5. As an NHRI, the Commission can coordinate and collaborate with other NHRIs, international organizations and civil society actors on cases of OFWs or foreign nationals in their respective countries - facilitating jail visits and repatriation. The Commission can facilitate a referral mechanism among its NHRI networks through exchange of information and liaise in the safe return and repatriation of individuals, in coordination with the Department of Foreign Affairs. This referral mechanism can be activated regardless of migrant status whether undocumented, trafficked or stateless.

**Information on any specific or additional legislative and policy measures as well as challenges in the context of the COVID-19 pandemic in the implementation of regularization programs**

1. The COVID-19 pandemic has tested the rigor and resilience of Overseas Filipino Workers (OFWs) and their families, and like many migrant workers around the world, they have also experienced challenges and abuses against their human rights in the midst of global, transborder and national responses and restrictions imposed by governments.
2. In a research study entitled “Community of Care Amid Pandemic Inequality: The Case of Filipino Migrant Domestic Workers in the UK, Italy, and Hong Kong,” challenges due to pandemic such as structural inequalities brought about by their status as migrants and the ways their essential labor is denigrated and devalued in three host countries were reported by Filipino Migrant Domestic Workers (FMDW) in Asia and Europe.[[14]](#footnote-14)
3. In terms of the regularization process, the Italian government imposed a number of socioeconomic measures such as “Relaunch Decree and Liquidity Decree” to address the economic impacts of the pandemic. This policy gave opportunity to undocumented migrants including FMDW to engage in the agricultural, domestic, and care industries the chance to obtain legal employment status. For those already engaged in one of these areas, their respective employers may regularize their work and status for a period of up to two years. In the case of unemployed who are seeking jobs, a temporary visa may be issued for a period of six months. However, because of the financial implication of the process, employers are also reluctant to regularize them for two years.[[15]](#footnote-15)
4. In response to the pandemic, the Philippine Congress passed two laws known as the Bayanihan to Heal as One Act (RA 11469)[[16]](#footnote-16) and the Bayanihan to Recover as One Act (RA 11494),[[17]](#footnote-17) which enabled migrant-serving agencies to immediately address OFs’ needs.
5. In October 2020, an omnibus health guideline was issued as well for foreign nationals. During the pandemic, refugees, stateless persons and asylum-seekers were accounted for in the public health services. Some foreigners, including refugees and asylum seekers, have been housed by the DSWD in its residential centers. While at the Center, foreign nationals are assisted to seek jobs based on their talents; for those without skills, they are encouraged to participate in skill training that the Center organizes together with other residents of the Center. Moreover, the Department of Tourism (DOT), Department of Transportation (DOTr), Department of Foreign Affairs (DFA) and Department of Interior and Local Government (DILG) scheduled repatriation sweeper flights to assist stranded foreign individuals return to their home countries.[[18]](#footnote-18)
6. The Commission acknowledged the government's programs and initiatives to support OFWs in the midst of the pandemic, including repatriation and reintegration programs as well as financial, economic, and employment support, among others. However, these laws along with other policies did not directly address the regularization process. The Commission calls for continuing engagement and agreements with host countries for the protection and promotion of the rights of Filipino migrant workers as well as continued government programs and policies to establish regularization pathways for qualified but undocumented OFs.

1. As the National Human Rights Institution (NHRI) of the Philippines, the Commission on Human Rights is mandated by the 1987 Philippine Constitution and the Paris Principles to promote and protect human rights including civil and political rights, and economic, social, and cultural rights. The Commission has the following

   responsibilities: regularly report and monitor human rights situations and violations and recommend steps for the promotion and protection of human rights. It has been accredited an “A” Status by the Sub-Committee for Accreditation of the Global Alliance of National Human Rights Institutions (“GANHRi) [↑](#footnote-ref-1)
2. Claudine Burton-Jeangros, Aline Duvoisin, Liala Consoli, Julien Fakhoury, and Yves Jackson, National Library of Medicine, “*The well-being of newly regularized migrant workers: Determinants of their satisfaction with life as compared to undocumented migrant workers and regular local residents,”* 17 August 2021, available at

   <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8550693/>, (Last accessed: 15 February 2023). [↑](#footnote-ref-2)
3. International Organization for Migration’s (IOM) briefer on Regularization, available at <https://www.iom.int/sites/g/files/tmzbdl486/files/documents/regularization.pdf>, (Last accessed: 15 February 2023) [↑](#footnote-ref-3)
4. [PH Submission of the GCM Voluntary National Review](https://www.un.org/sites/un2.un.org/files/imrf-philippines.pdf), 06 April 2022, Last accessed: 13 February 2023. [↑](#footnote-ref-4)
5. Migrants.org, *“Bahrain ends its Flexi-Permit programme and announces labour reforms,”* 16 October 2022, available at <https://www.migrant-rights.org/2022/10/bahrain-ends-its-flexi-permit-program-and-announces-labour-reforms/>, (Last accessed: 13 February 2023) [↑](#footnote-ref-5)
6. Supra note 4. [↑](#footnote-ref-6)
7. [Joint Memorandum Circular (JMC) 001, s. 2019 or “The Rules and Procedures Governing Foreign Nationals Intending to Work in the Philippines.”](http://ble.dole.gov.ph/wp-content/uploads/2022/06/JOINT-MEMORANDUM-CIRCULAR-NO-001-SERIES-OF-2019.pdf) (Last accessed: 21 February 2023) [↑](#footnote-ref-7)
8. Authored by Reps. Feliciano Belmonte, Jr. (4th District, Quezon City), Xavier Jesus Romualdo (Lone District, Camiguin), Evelina Escudero (1st District, Sorsogon), Leopoldo Bataoil (2nd District, Pangasinan), and Maximo Rodriguez, Jr. (2nd District, Cagayan de Oro City), respectively. See here: <https://www.congress.gov.ph/press/details.php?pressid=10161> [↑](#footnote-ref-8)
9. [Philippine Immigration Act of 2022](https://legacy.senate.gov.ph/lis/bill_res.aspx?congress=19&q=SBN-781,), filed on July 21, 2022 by Senator Zubiri, Juan Miguel "Migz" F., (Last accessed: 13 February 2023) [↑](#footnote-ref-9)
10. Supra note 4. [↑](#footnote-ref-10)
11. Id. [↑](#footnote-ref-11)
12. Id. [↑](#footnote-ref-12)
13. CMA website, “[Translating Rights – A Study on Bilateral Labor Agreements Between the Philippines and Saudi Arabia, Jordan, and Lebanon (2020),” available at https://centerformigrantadvocacy.files.wordpress.com/2021/01/bla-study-v.-2.pdf](https://centerformigrantadvocacy.files.wordpress.com/2021/01/bla-study-v.-2.pdf), (Last accessed: 20 February 2023) [↑](#footnote-ref-13)
14. Ron Bridget T. Vilog\* and Carlos M. Piocos III De La Salle University, Manila, Philippines, *“Research Study on Community of Care Amid Pandemic Inequality: The Case of Filipino Migrant Domestic Workers in the UK, Italy, and Hong Kong,”* June 2021, available at: <https://www.dlsu.edu.ph/wp-content/uploads/pdf/research/journals/apssr/2021-June-vol21-2/14-Community-of-Care-Amid-Pandemic-Inequality-The-Case-of-Filipino-Migrant-Domestic-Workers-in-the-UK-Italy-and-Hong-Kong>, (Last accessed: 20 February 2023) [↑](#footnote-ref-14)
15. Id. [↑](#footnote-ref-15)
16. [Bayanihan to Heal as One Act (RA 11469)](https://www.officialgazette.gov.ph/downloads/2020/03mar/20200324-RA-11469-RRD.pdf), (Last accessed: 13 February 2023) [↑](#footnote-ref-16)
17. [Bayanihan to Recover as One Act (RA 11494)](https://www.officialgazette.gov.ph/downloads/2020/09sep/20200911-RA-11494-RRD.pdf), (Last accessed: 13 February 2023) [↑](#footnote-ref-17)
18. Supra note 4. [↑](#footnote-ref-18)