



Gulf Research Centre Cambridge
Knowledge for All



Frontlines of Global Migration: Philippine State Bureaucrats' Role in Migration Diplomacy and Workers' Welfare in the Gulf Countries

Froilan T. Malit, Jr.

Chapter in the volume:

Migration to the Gulf: Policies in Sending and Receiving Countries

edited by Philippe Fargues and Nasra M. Shah

This is a chapter in the volume: Philippe Fargues and Nasra M. Shah (eds.), *Migration to the Gulf: Policies in Sending and Receiving Countries*, Gulf Labour Markets and Migration (GLMM) Programme, Gulf Research Center Cambridge, 2018. For other chapters and the entire volume, please refer to www.gulfmigration.eu.

Terms of use: By using any information from Gulf Labour Markets, Migration and Population Programme (GLMM), the user: (a) acknowledges having read the legal notices concerning copyright, terms of use and disclaimers and agrees to comply with them in full; (b) agrees to assure himself/herself whether and to what extent copyrights exist on information published by GLMM prior to using this information; (c) agrees not to use information published by GLMM in any way that would result in the infringement of existing copyrights; (d) agrees to always follow precisely and fully the citation instructions provided by GLMM. GLMM publications may be copied and distributed only in their entirety and together with any copyright statements they may contain, as long as they are properly attributed and used for non-commercial, educational, or public policy purposes. Photographs, logos, graphs, tables or any other images from GLMM publications may not be used separately.

Copyright: © European University Institute (EUI) and Gulf Research Center (GRC), 2018. All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise, without the prior permission of European University Institute and Gulf Research Center.

Disclaimer: The Gulf Labour Markets, Migration and Population Programme (GLMM) cannot be held responsible in any way for the correctness and accuracy of the information and data published on its website, on paper and in other forms, including the database and its publications. GLMM strongly encourages users to verify the correctness and accuracy of the information and data with the source, which is always indicated with the greatest accuracy and detail possible. Any opinions expressed in any GLMM publication are those of the author(s) alone and do not necessarily state or reflect the opinions or position of the Migration Policy Centre, the European University Institute or the Gulf Research Center.

Support: The Gulf Labour Markets, Migration and Population Programme (GLMM) receives support from the International Migration Initiative (IMI) of the Open Society Foundations (OSF), the National Priority Research Program (NPRP) of the Qatar National Research Fund (QNRF), the Swiss Agency for Development and Cooperation (SDC), and the United Nations Development Programme (UNDP- Kuwait) and relies on the institutional resources of GLMM partners.



Gulf Research Center

Knowledge for All

E-mail: info@grc.net

Website: www.grc.net



GLMM
Gulf Labour Markets and Migration

Gulf Labour Markets, Migration, and Population (GLMM) Programme

E-mail: info.glmm@grc.net

Website: gulfmigration.eu

Gulf Research Center

E-mail: info@grc.net

Website: www.grc.net

Jeddah

Gulf Research Center
19 Rayat Al-Itehad St.
P.O. Box 2134
Jeddah 21451
Kingdom of Saudi Arabia

Geneva

Gulf Research Center
Foundation
WMO Building - 2nd Floor
Avenue de la Paix, 7bis
CH-1211 Geneva
Switzerland

Cambridge

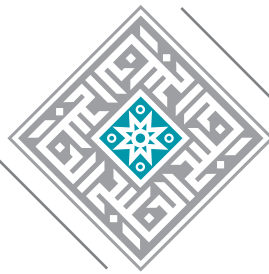
Gulf Research Centre
Cambridge
Centre of Islamic Studies
University of Cambridge
Sidgwick Avenue
Cambridge CB3 9DA, UK



First published 2018

Cover Photo: Imco Brouwer

About the Gulf Research Center



The Gulf Research Center (GRC) is an independent research institute founded in July 2000 by Dr. Abdulaziz Sager, a Saudi businessman, who realised, in a world of rapid political, social and economic change, the importance of pursuing politically neutral and academically sound research about the Gulf region and disseminating the knowledge obtained as widely as possible. The Center is a non-partisan think-tank, education service provider and consultancy specializing in the Gulf region. The GRC seeks to provide a better understanding of the challenges and prospects of the Gulf region.

About the Gulf Labour Markets, Migration, and Population (GLMM) Programme

The Gulf Labour Markets, Migration, and Population (GLMM) Programme (<http://gulfmigration.eu>) is an independent, non-partisan, non-profit joint initiative of a major Gulf think tank, the Gulf Research Center (GRC - Jeddah, Geneva, Cambridge), and a globally renowned university, the European University Institute (EUI - Florence). GLMM provides data, analyses, and recommendations contributing to the understanding and management of labour migration in the countries of the Gulf Cooperation Council, engaging with all stakeholders.



X

Frontlines of Global Migration: Philippine State Bureaucrats' Role in Migration Diplomacy and Workers' Welfare in the Gulf Countries

*Froilan T. Malit, Jr.**

Abstract: Labour-sending states—acting through the agency of their frontline state bureaucrats—are often viewed as “powerless rule takers” due to their limited sovereign power to exert legal, economic, and diplomatic influence over destination countries. The asymmetric power relationship has generated a policy dilemma for many labour-sending states: states like the Philippines must choose between protecting their citizens’ labour rights and welfare and maintaining labour market access in the Gulf region. Given the legal, diplomatic, and institutional constraints, this chapter investigates the complex roles and impact of the Philippine state actors’ proactive migration protection policy on migrant labour rights and welfare in the Gulf countries. Drawing from 50 in-depth qualitative interviews and field observations with Filipino diplomats, labour and welfare officers, and domestic workers in Kuwait, Qatar, and the United Arab Emirates, between 2011 and

* Froilan T. Malit, Jr. is an Associate at the Gulf Labour Markets, Migration and Population (GLMM) Programme and also an Associate, Zayed University’s Institute of Social and Economic Research (ISER).

2016, it is argued that, despite employing proactive state protection measures, the Philippine's frontline state actors were not only structurally constrained in protecting domestic workers from labour exploitation but also have increasingly been forced to respond to globalisation forces by employing multiple governance strategies and mechanisms to uphold state control. These empirical findings contribute to the larger theoretical debates on the role of the state in international migration by shifting the discourse to the human agency of the state (mainly frontline state bureaucrats) to understand how labour-sending states determine policy outcomes in the authoritarian destination countries.

Introduction

‘Structures don’t move, people do’ – Calavita (1992)

A frontline state bureaucrat,¹ Jenny Pagta, describes her daily work experience inside the Philippine Office of the Welfare Worker Administration (OWWA) in Doha, Qatar:

This is a hard, complicated and underpaid job. If you favour Arab employers, then you’ll look bad to Filipinos and in the local Filipino communities. They accuse you of just sitting in the office and not helping Filipinos, or even of corruption. They don’t know what’s happening here. If you favour Filipinos, it will affect our relationship with the employers. So what should I do? (Personal interview, December 22, 2011).

Jenny’s narrative is part of the global debate on the appropriate role of labour-sending states like the Philippines in protecting citizens’ labour and employment rights while maintaining labour market access and competitiveness in the host country. Unlike democratic labour-receiving states, the authoritarian Gulf countries of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and United Arab Emirates (UAE) are challenging destination states for labour-sending countries like the Philippines because they largely exclude migrant domestic workers² from national labour laws, often categorising their employment status as “informal” in the domestic labour market (Shah 2004; Fernandez 2014; Jureidini 2017).

-
1. I have used the term “frontline state bureaucrat” to refer to Philippine diplomats, labour and welfare officers legally mandated under Section 23 (b2) RA 8042 to protect the interests, rights, and welfare of OFWs globally.
 2. ILO defines the term *domestic work* as work performed in or for a household or households, and as any person engaged in domestic work within an employment relationship.

This chapter investigates an important question: does the Philippine state actors' proactive migration protection approach engender better workers' welfare for domestic workers in the Gulf countries? While numerous academic and media reports have highlighted domestic worker abuse throughout the Gulf states,³ further studies are required to examine how frontline Philippine state bureaucrats struggle and mitigate domestic workers' abuses. Thus, it is argued that, despite employing proactive state protection measures, frontline Philippine state actors are not only structurally constrained in protecting domestic workers from labour exploitation but also are increasingly forced to employ multiple governance strategies and mechanisms to uphold state control. To focus this research, this chapter analyses Philippine's frontline state bureaucrats because they are not only under theorised but also primarily handle all domestic workers' cases in the Gulf countries. These particular gaps are undesirable as both academic scholars and policymakers remain uninformed about the real impact of frontline state bureaucrats in the global migration policy discourses.

This chapter is divided into five sections. The first section examines the roles of the Philippine state and its governing institutional framework in implementing migration protection policies for migrant domestic workers. The second section conceptually introduces Skocpol's (1985) call to disaggregate the state and Lipsky's (1980) street-level bureaucracy and their critical applications in understanding migration policy implementation in the Gulf countries. The third section briefly presents the methodological component, while the fourth section examines various structural constraints (including legal, diplomatic, and institutional) and consequences that limit frontline state actors' protection capacity. The final section highlights frontline state bureaucrats' migration strategies and coping mechanisms in rebalancing the embedded power asymmetry in the Gulf countries.

Philippine State and Its Proactive Migration Approach

In the Gulf countries, the Philippine state institutionally implements a "one country-team approach"—a global protective strategy that locates and provides labour market opportunities and diplomatic protection for Overseas Filipino Workers (OFWs)—which is headed by the Philippine Ambassador. The Department of Foreign Affairs (DFA) and the Department of Labor and Employment (DOLE) are the main players in this country-team approach whereby DFA certifies destination countries that legally meet the Republic Act (R.A.) 8042 requirements—including bilateral

3. Also see Sabban (2009), Fernandez (2014), Jureidini (2017), and Malit et al. (2017).

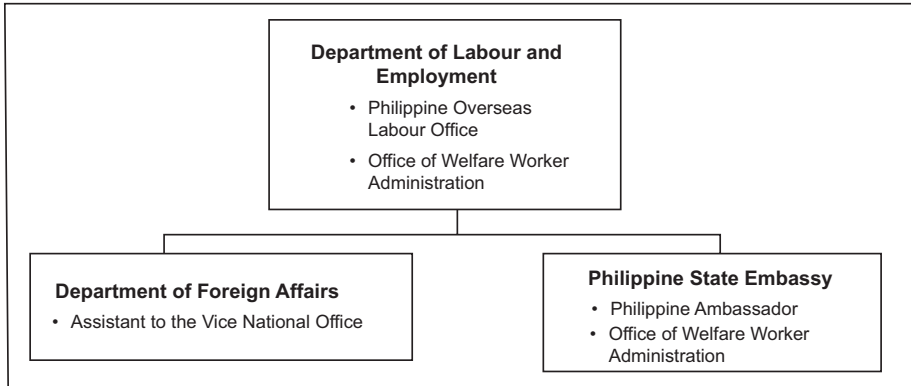
labour agreement with the Philippine state; domestic labour law; strong legal institutions and; signatory of international labour conventions. DOLE, however, regulates the deployment, recruitment, and welfare governance aspects of OFWs. Two labour and welfare offices—Assistant to the Vice National Office (AVNO) under the DFA and Office of the Welfare Office (OWWA) and the Philippine Overseas Labor Office (POLO) under DOLE—are specifically responsible for domestic workers' issues. These Philippine state institutions are legally governed by the R.A. 7157 Philippine Foreign Service Act, R.A. 9402, and R.A. 8042 and its amending laws R.A. 10022, which specifically regulate not only the recruitment and deployment processes but also the labour rights and welfare of migrant workers in the host countries. Therefore, POLO/OWWA and ATN officials (or, frontline state bureaucrats) are crucial players under the one-country team approach because they primarily address domestic worker labour/employment and criminal cases and enforce Philippine labour regulations on both Gulf and Philippine-based agencies/employers.

Mainly trained by the respective Philippine government agencies (i.e., DFA, DOLE) prior to their posting at destination countries, frontline state bureaucrats have both formal and informal administrative mandates to address broader domestic worker issues.⁴ They provide labour mediation, dispute and consular assistance, conduct labour market development assessments, implement protection policy initiatives, and facilitate state-led rescue, visit, and assistance programmes in Gulf-based facilities (i.e., labour, civil, and criminal courts, police stations, deportation and detention centres). They facilitate broader collaborative partnerships with external stakeholders like local enforcement and border immigration authorities to implement Philippine policies in the Gulf countries. Joint force activities, including visiting employers' residences to enforce court rulings and locating domestic workers who have disappeared are among the daily collaborative activities undertaken jointly by frontline state bureaucrats and external stakeholders. Specific social assistance programmes (i.e. loans, upskilling) have been designed to improve the quality of life for domestic workers and their dependents in the Philippines. More importantly, frontline state bureaucrats have the absolute authority to restrict or endorse domestic workers in Gulf-based police and immigration stations for repatriation procedures and thus hold bureaucratic discretions within

4. The Philippine government also hires locally based frontline officers, who provide multilingual labour and welfare assistance to OFWs in the Gulf countries. They work very closely with frontline state bureaucrats in delivering social and welfare protections within the respective government agencies.

migration policy implementation processes. Without their official authorisation and intervention, domestic workers are not repatriated to the Philippines. Thus, the onsite country-team approach—embedded in the Philippine legal system and enforced by frontline state bureaucrats—not only points to the proactive character of the Philippine state, but also reflects its legal and moral commitment to protect labour irrespective of their migration status.

Figure 10.1: On-Site country team approach



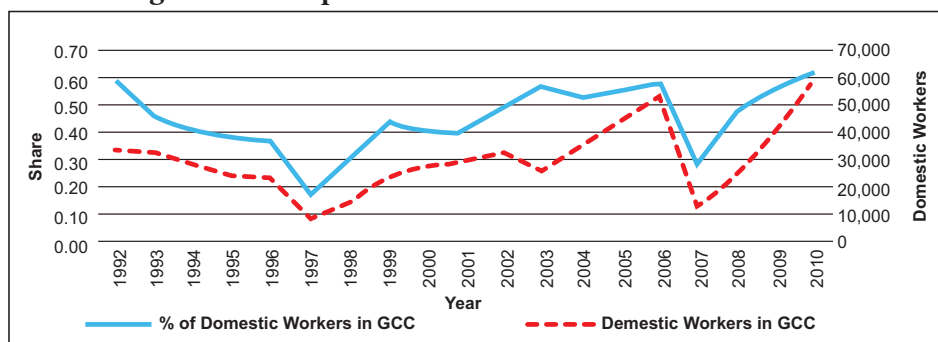
Source: Author's fieldwork data.

While frontline state bureaucrats are specifically mandated to protect all Filipino workers, they often largely focus on addressing domestic workers' issues. Often labelled as a "crisis post," frontline state bureaucrats view the Gulf countries as the most challenging diplomatic locations globally due to the high number of vulnerable, low-skilled OFW populations, mainly domestic workers. With the Philippines being one of the largest exporters of domestic workers to the Gulf countries (see Figure 10.2), frontline state bureaucrats have consistently faced various institutional, administrative, and diplomatic challenges due to the exceptionally high rate of migration flows of domestic workers to the Gulf countries. For example, the number of Filipina domestic workers deployed to the GCC (new hires) fluctuated between a low of 10,000 in 1997 to a high of almost 60,000 in 2010, while their share of the total foreign workers (new hires) from the Philippines represented at least 60 per cent in 2010 (and averaged 45 per cent between 1992 and 2010).⁵ In addition, in 2010, the Philippine Overseas Employment Agency (POEA) data indicates that the total number of Filipina domestic workers (new

5. While Figure 10.2 shows the significant presence of Filipino domestic workers in the Gulf region, the government data only reveals information on new hires, so the overall population of Filipino domestic workers in the Gulf countries cannot be determined.

hires) almost reached 100,000 and never went below 47,000 for a period of 19 years (1992-2010). More importantly, the proportion of domestic workers approximately averaged 40 per cent of the total female OFWs between 1992 and 2010. The POEA data suggests that the share of domestic workers to females OFW in Figure 10.3 is high because the share of female domestic workers to total domestic workers ranges between 97 to 99 per cent.

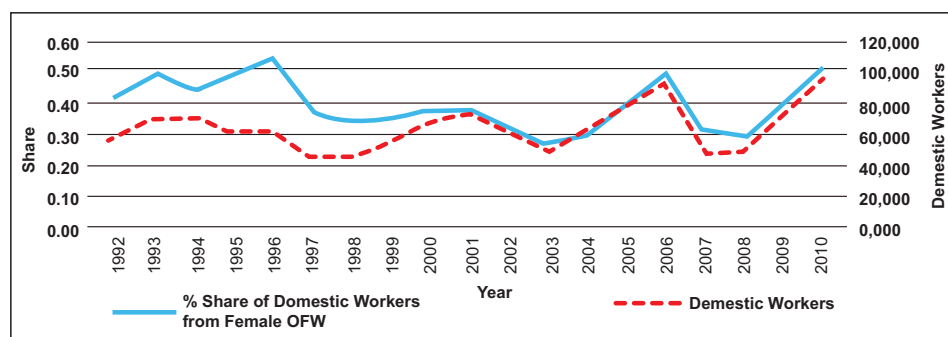
Figure 10.2: Filipina domestic workers in GCC - new hires



Source: Philippine Overseas Employment Administration (POEA).

Thus, Figures 10.2 and 10.3 indicate that domestic workers constitute a sizable share of females OFWs from the Philippines. The Gulf region has nearly half of the total domestic workers worldwide from the Philippines, and the number of domestic workers is significantly high. Therefore, the large presence of foreign domestic workers has not only posed critical institutional challenges for the Philippine state and its frontline state bureaucrats, but has also forced them to develop multiple governance and administrative strategies to uphold state control in the host country (Malit et al., 2018, forthcoming).

Figure 10.3: Domestic workers from the Philippines - new hires



Source: Philippine Overseas Employment Administration (POEA).

Deconstructing the Relationship between the State and Its Bureaucrats

In the context of international labour migration, labour-sending states often are severely constrained by political, institutional, and economic factors that require their bureaucrats to fully uphold their policy principles and values within the bureaucracy (Rodriguez 2010; Bach and Solomon 2008; Calavita 1992). Calling for the imperative need to deconstruct the state, Skocpol (1985) acknowledges that states are “conceived as organizations claiming control over territories and people may formulate and pursue goals that are not simply reflective of the demands or interests of social groups, classes or society.” The state autonomy theory, defined as the ability of state actors to pursue their own interests and agendas, accentuates the independent power of the state from the rest of society. The state, acting through the human agency of state actors, is an autonomous entity that pursues its interests and agendas within a capitalistic environment. It uses two indicators to justify state power: (1) the size of state budget and employee population as sources of state agency power and (2) the expansion of the federal government (growth of state officials’ power). These state powers emphasise the critical importance of state capacity and autonomy and the importance of the administrative state’s control in pursuing its own policy interests or objectives. As Skocpol (1985) highlights:

The administrative organization of government is crucial [...] Governments that have, or can quickly assemble, their own knowledgeable administrative organizations are better able to carry through than are the governments that must rely on extragovernmental experts and organizations.

Skocpol’s view of the state sees the autonomy of state actors or administrative units that have a significant influence in determining policy outcomes as independent from any societal influence. It also disaggregates the state into a multi-level organisation, recognises the agency (independence) of state agencies, departments, or state managers (Calavita 1992). At the same time, Skocpol recognises the multi-layered nature of administrative agencies and state actors’ interests and agendas while highlighting their human agency and political will to influence and implement public policies. This framework also helps avoid the anthropomorphic power interpretation of the state and provides an alternative framework as it allows us to “disaggregate” the state by focusing on specific agencies or departments and state actors that have similar yet conflicting policy implementation interests, agendas, and constraints inside the Philippine state in the Gulf countries.

Reaffirming Skocpol’s (1985) theoretical proposition, Michael Lipsky’s (1980) theory of street-level bureaucracy illustrates the need to disaggregate the

state by emphasising the critical role of frontline policy implementers as the most important state actors, who are often excluded in policy making. He defines street-level bureaucrats as “frontline” workers who interact directly with citizens in the course of their jobs. Because of their substantial autonomy and discretion, they play a powerful part in the policy implementation community, underlining that “policy implementation in the end comes down to the people who actually implement it” (Lipsky 1980:3; Evan and Harris 1982). Because of their substantial authoritative discretion, interpretative capacity, and innate public resource knowledge within the workplace, frontline state bureaucrats have the strong capacity to influence public policy outcomes (Lipsky 1980; Evan and Harris 1982). More importantly, internal bureaucratic constraints like public budget deficits have forced frontline welfare bureaucrats not only to adopt context-based administrative strategies (i.e., rationing, screening and routinising techniques) but also develop informal policy practices to effectively achieve intended state policy objectives (Lipsky 1980). As policy implementers, frontline welfare bureaucrats have understated power and capacity to influence Philippine emigration policies.

Street-level bureaucrats must choose between responding to citizens’ demands and ensuring an effective policy implementation process. Lipsky (1980) identified multiple problems with street-level bureaucracy, such as limited resources and interpersonal client relations, which directly constrain the effectiveness of such a policy. The strength of this theory is that it explains a critical layer of the state’s low-level policy, which has been widely ignored by many social scientists when understanding the role of states in international migration. It also helps explain how policies are controlled and translated into practice, while situating the role of state policy implementers as critical functions of the state’s policy outcomes, adopting reactionary strategies to cope with critical challenges in their job like limited resources and non-voluntary client relations. This particular layer provides a “bottom-up” approach to understanding the nature of the state and is the most critical framework because it examines how the state pursues its policy priorities given the broader constraints with other labour-sending states in the Gulf countries.

Yet several scholars have also challenged the street-level bureaucracy theory and argue that “the proliferation of rules and regulations should not automatically be equated with greater control over professional discretion; more rules may create more discretion” (Evan and Harris 1982: 12). They claim that the exercise of professional discretion by street-level bureaucrats is not inherently “bad” but should be conceived as a key professional attribute of government authorities. Despite such limitations, street-level bureaucracy is the most critical framework to understand

frontline state bureaucrats' migration operations in the Gulf countries. This theory also helps examine the behaviour and approaches of frontline state bureaucrats towards stakeholder clients'—such as domestic workers, employers, and recruiters—operating within the labour market, and how those different policy interests and objectives are being translated into practice within the Philippine state regime.

Methodology

A qualitative research design most appropriately captures complex human social interactions, interests, tensions, and coping mechanisms within multiple environments. Therefore, I chose an ethnographic-style research design, including in-depth, semi-structured interviews and a document analysis, to examine the complex roles and impact of Philippine frontline state bureaucrats on the labour rights and welfare of Filipina domestic workers in the Gulf countries (see Table 10.1).

Table 10.1: Sampling descriptions

Respondent Category	Total
Filipino Diplomats	20
Welfare Officers and other embassy staff members ⁶	15
Labour/community leaders	15
Total # of Participants	50

Source: Author's fieldwork data.

Drawing from 50 in-depth qualitative interviews and field observations between 2011 and 2016 with Filipino diplomats, labour and welfare officers, and labour rights leaders, I specifically studied the role of frontline state bureaucrats and their complex relationships with Filipino domestic work populations and the host country governments in multiple fieldwork sites—labour mediation offices, court hearings, Filipino community centers, and City Center malls—which became the focal points for data collection. In Qatar, Kuwait, and the UAE, I conducted in-depth, semi-structured interviews with frontline state bureaucrats to understand

6. Other embassy staff members who directly work with labour migration issues include but are not limited to those personnel who work on facilitating labour complaints, rescuing, and organising migrant welfare assistance programmes.

their political, social, and administrative challenges in extending labour protection to domestic workers in the Gulf.⁷ The document analysis technique also enabled me to further triangulate my fieldwork findings from frontline state bureaucrats and enrich my institutional perspectives on how and why the state faces complex and multiple constraints in securing labour rights and welfare protection for domestic workers. Key documents, including official state labour laws, migration policies, bilateral agreements/memorandum of understanding, and administrative orders and data, were analysed. I also utilised frontline state bureaucrats' media commentaries in various Philippine and GCC-based newspaper media outlets to deepen my empirical analysis. The specific research methods and techniques, combined with such participant interactions, provided a critical view of the Philippine state in the Gulf countries and illuminated the complex and multiple constraints and challenges in governing international labour migration in the Gulf countries.

Frontline State Bureaucrats' Structural Constraints in the Gulf

Legal Constraints

In the Gulf countries, frontline state bureaucrats face various legal constraints that have directly impacted their capacity to address domestic worker complaints. In fact, no current domestic work laws or unified contracts between the Philippines and several Gulf countries (specifically Kuwait and Qatar) have been officially passed, thereby excluding domestic workforce from accessing state services (i.e., mediation conciliation) under the governing labour ministries in the Gulf countries. In Qatar, for example, a recent bill has been introduced to address employers' contractual obligations, yet this has not been implemented. The domestic work law in the UAE has been approved, yet it has also not been fully implemented. The governing bilateral agreements between the Philippines and all Gulf governments are also not applicable because they exclude domestic workers. Go (2004) argues that most Gulf states have refused to include domestic workers due to a perceived fear of more obligations toward labour-sending countries. Like bilateral agreements, the ILO No. 189 (2011) International Labour Convention on Migrant Rights of Domestic

-
7. During my field interviews, I utilised a convenience sampling technique with frontline bureaucrats and semi-structured interviews to guide our discussion throughout the field interview. Interview questionnaires were officially submitted in advance, and I spent at least 45 minutes conducting interviews with frontline state bureaucrats, where I had the opportunity to examine both the internal and external institutional, social, and political challenges in protecting migrant domestic workers in the host country. Interviews were conducted in Tagalog and English.

Workers seemed to have no impact due to its non-legal binding status. A frontline state bureaucrat in the UAE, Pete, asked: “How can ILO conventions make a difference if they are non-binding? Gulf countries’ preferences will prevail” (Personal interview, May 27, 2014). The lack of a national domestic law, combined with the non-binding legal status of bilateral labour agreements and ILO conventions, has inevitably forced frontline state bureaucrats to rely on informal labour conflict mediations within governing embassies to extend protection to domestic workers. This legal constraint is not only a fundamental challenge for the Philippine state and other labour-sending countries, but also a structural impediment to their labour protection efforts across the Gulf countries.

Diplomatic Constraints

Constrained diplomatically in the Gulf countries, frontline state bureaucrats can neither publicly demand labour rights nor criticise any Gulf state in the print media because it is considered illegal. Thus, they tend not to provoke tensions between the Philippine state and the Gulf states to avoid the possibility of impacting their diplomatic relations and other ongoing bilateral negotiations. As a frontline state bureaucrat in the UAE, Parker, asserts: “Labour migration is a highly sensitive topic in the Gulf, and we must be cautious in commenting about the prevailing labour reforms in the host country. These are young countries and they are trying to develop their labour governance systems while at the same time they have strong international obligations to conform to international labour standards. We need to continuously cooperate with them and suggest new policy avenues to improve our bilateral cooperation at all times” (Personal interview, June 14, 2016). In addition, the intense labour market competition for domestic workers with other labour-sending states like Indonesia, Sri Lanka and Ethiopia structurally limits the bureaucrats’ capacity to demand labour/employment rights. This weak bargaining power, however, does not mean that frontline state bureaucrats do not actively enforce Philippine protection policies against employers and labour recruiters when they commit violations. In fact, they have aggressively developed strong administrative policy rules within POLO to hold employers and agents accountable for labour complaint cases like nonpayment. However, these rules are often largely diplomatically limited because many Gulf states’ foreign affairs ministries in the Gulf countries often prohibit sending-state bureaucrats from communicating with local and expatriate employers. Despite such limitations, frontline state bureaucrats have continued to provide consular assistance to migrant workers by helping them in filing labour cases against their employers in the Gulf countries’ civil, labour and

police courts. As one frontline state bureaucrat in the UAE acknowledges, “We provide conciliation and rescue services to Filipino domestic workers and other private sector workers. We go to the police stations, immigration offices, and local courts to assist our workers. We make sure they understand the legal process and don’t miss out on their cases” (Personal interview, May 24, 2014). This also signals that employers and labour recruiters are not fully in the “driving seat,” thus helping frontline state bureaucrats negotiate power relations within the *kafala* through the embassy-run conciliation and dispute resolution services offered to agents, employers, and domestic workers. Thus, the multi-layered constraints in the Gulf countries have forced frontline state bureaucrats to cope with and develop a strong administrative capacity with informal mechanisms to redirect certain burdens to other stakeholders in order to rebalance their unequal power status under the *kafala* (Malit et al., 2018, forthcoming).

Institutional Constraints

While the Philippine state has developed a proactive legal framework for extending protection for domestic workers, frontline state bureaucrats are embedded in institutional constraints in the Gulf’s domestic work sector (Malit and Naufal, 2016). The weak multilingual staff capacity and inadequate assistance funds have deeply impacted their capacity to immediately resolve domestic worker cases. In the Gulf countries, the current ratio between frontline state bureaucrats and the total domestic work/OFW population is very low, which has significantly disrupted their administrative capacity to provide conflict mediation and “follow-up” procedures for domestic workers. As Marco, a frontline state bureaucrat in Kuwait, acknowledges, “We recognise that the number of staff is limited, but we are optimising our existing resources in order to extend labour protection to all Filipinos, specifically domestic workers” (Personal interview, March 12, 2014). As Table 10.2 suggests, given the significant share of Gulf-based domestic workers within the Philippine labour force, the Philippine’s frontline state bureaucrats have extremely weak staffing capacity to address domestic workers issues as evident from the current ratio between frontline state bureaucrats and the domestic worker population in Kuwait (14: 142,000), Qatar (13:32,000), and the UAE (21: 187,500).

Table 10.2: Mapping the Philippine state's institutional protection capacity in selected GCC countries (estimated figures)

GCC Country	Total Ratios of Bureaucrats to Domestic Workers (estimated)
Kuwait	14: 140,000
Qatar	13: 32,000
UAE	21: 187,500

Source: Malit and Ghafoor (2014) and author's fieldwork data.

Note: The actual figures fluctuate because bureaucrats tend to either complete their term or resign, or are recalled or reposted in other diplomatic posts globally. The figures above only reflect the estimated ratio of bureaucrats to domestic workers during the time of the research fieldwork.

These ratios between bureaucrats and the domestic work/OFW populations clearly serve as an indicator of weak labour/welfare assistance capacity for OFW populations in the Gulf countries. Moreover, most frontline state bureaucrats and state managers (i.e., ambassadors) in Qatar, Kuwait, and UAE have limited working knowledge of the Arabic language, and they often rely on local or other Arab nationalities to help them effectively communicate with local labour or immigration authorities. They often feel “powerless” due to their inability to communicate with local Arabic-speaking high-level officials within the police and immigration security bureaucracies, which constrains their administrative capacities and discretion to effectively resolve dispute cases. To put this into context, OWWA/POLO offices receive on average 110 or more absconding domestic worker cases in Qatar. In some cases, during an imposed deployment, between 200 and 300 absconding domestic workers would seek assistance and submit complaints in Kuwait and the UAE (i.e., long working hours, no food, nonpayment, or family issues in the Philippines) to Philippine diplomatic missions. Without Arabic-speaking frontline state bureaucrats, it is difficult to negotiate highly classified cases (i.e., rape, molestation, sexual harassment) with employers and immigration authorities, who also face language barriers in English. As one frontline state bureaucrat in Qatar, Mateo, highlights: “We have to rely on our local Arabic translators, as they help us legally understand the host country laws and deal with complex labour and immigration cases. We invest on these local translators to make sure that we provide the optimal legal translation for all our domestic workers’ cases. Without them, it would be difficult to engage with local institutions” (Personal interview, March 16, 2015).

Simply put, because the staff is largely monolingual, they are hamstrung in their administrative capacity to resolve domestic workers' cases in multiple locations. Their heavy reliance on local Arabic interpreters from Sudan, Syria, Iraq, and other Arab countries reflects their institutional limitations in engaging with the authorities in the Gulf countries.

The lack of funds to assist domestic workers (i.e., providing repatriation tickets) is another institutional constraint for the Philippines in the Gulf countries. As one frontline state bureaucrat, Mercy, in Kuwait recalls: "We don't have enough funds to quickly pay for all the tickets. In fact, we receive hundreds of absconding domestic workers on a monthly basis and, because we have loads of cases, we often have to prioritise the severity and urgency of cases before we disburse the necessary funding" (Personal interview, May 25, 2015). While the diplomatic mission provides basic services, including temporary accommodation, food, and basic hygiene materials, it selectively issues airline tickets to domestic workers to help them return to their origin country, often depending on the severity and type of cases. The Philippine RA 8042⁸ grants frontline state bureaucrats the authority to request airline tickets for domestic workers specifically for undocumented migrant workers' cases via DFA, yet this rarely applies to domestic workers with nonpayment or "petty crime" cases (i.e., extramarital cases known as "love cases," theft etc.). The funds are mostly available to domestic workers who have been extremely violated through rape, sexual harassment, underage domestic work, and working conditions. With heavy caseloads, frontline state bureaucrats act quickly to prioritise domestic worker cases. Needless to say, the lack of multilingual staff as well as limited funds, combined with the "transnational" pressure perpetuated in the country of origin, have impacted the behaviour and capacity of frontline state bureaucrats to facilitate the effective reintegration of domestic workers in the Philippines.

As a consequence, the Philippine state has appeared to dramatically face larger number of cases of labour and complaints against domestic workers.⁹ They have also been constrained by consistent political backlash from Philippine civil society groups operating in the Gulf countries and the Philippines (Malit et al., 2018). As one frontline bureaucrat, Mateo, in Qatar asserts: "The domestic worker cases are far more complicated than what the media and civil society present. We are often criticised by these civil society groups, but they don't understand that we are

8. The RA 8042 legally mandates the Philippine state to allocate \$19.96 million for distressed workers globally.

9. The applicability of the term "trafficking" under the *kafala* remains debatable. See Jureidini (2010) for more information.

struggling to protect these workers because there are no laws that specifically govern domestic workers' rights and welfare" (Personal interview, June 26, 2015). Table 10.3 indicates that in 2010, at least 80.76 per cent of domestic workers' complaints came from the Gulf countries, mostly from the UAE, Saudi Arabia, and Kuwait. While the percentage share of domestic workers' cases globally dropped in 2013 to 71.20 per cent, government data also suggests that domestic workers tend to face more labour problems in the Gulf countries relative to other destination countries. In 2013, the vast majority of domestic workers' cases came from the UAE, Saudi Arabia, and Kuwait, while in 2011 and 2012 in Qatar, the cases totaled 4,829 and 2,049, respectively. Cases related to domestic workers remained low in Oman and Bahrain, partly due to the low deployment rates to these Gulf countries in recent years. In January 2017, for example, Jakatia Pawa, a Filipina domestic worker in Kuwait, was executed for a criminal offence (i.e., killing her employer's 22 year old daughter), prompting a state bureaucrat to note that the Philippine state "failed to be proactive in monitoring the situation and in providing timely assistance." Jakatia's case not only reflects the "fatal flaws" in the Philippine migration system, but also the complex and multiple difficulties for the governing frontline state bureaucrats to deliver effective labour and welfare protection for domestic workers in Kuwait and other Gulf countries.

Table 10.3: Reported data on runaway domestic workers in the Gulf countries

Country	2013	2012	2011	2010
Bahrain	273	525	545	395
Kuwait	2,117	1,045	2,246	4,241
Oman	301	489	489	173
Qatar ¹⁰	890	2,049	4,829	247
Saudi Arabia	2,113	1,731	2,291	1,361
UAE	2,727	2,648	2,825	2,123
Total Gulf Countries	8,421	8,487	13,225	8,540
% Share of Total Domestic Workers' Cases Around the World	71.20	78.39	75.61	80.76

Source: Philippine Overseas Labour Office (POLO).

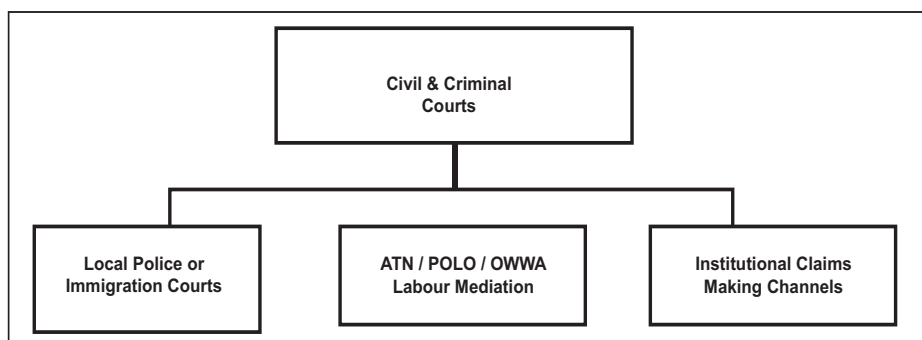
10. Recent data from POLO-Qatar acknowledged that 719 (2014) and 1,333 (2015) domestic workers' cases were reported, mainly complaints of non-payment and labour conditions.

Thus, the large number of labour complaints, combined with illegal migration and human trafficking problems, has placed critical challenges before the frontline state bureaucrats in extending protection to domestic workers in the Gulf countries.

Frontline State Bureaucrats' Strategies and Coping Mechanisms

Given their structural constraints, frontline state bureaucrats have developed multiple mechanisms to renegotiate the power asymmetry between stakeholders (i.e., employers, workers) under the *kafala* in the Gulf countries. While the pervasive media coverage of domestic worker abuses in the Gulf countries has created the impression that the state has failed to protect its citizens, the complex ways in which frontline state bureaucrats negotiate within these power structures and constraints have been widely overlooked. The following migration governance practices have been identified: (1) labour mediation, (2) 48-hour policy ban, and (3) informal *wasta* network.

Figure 10.4: Institutional claims making for domestic worker cases



Source: Author's fieldwork data.

Labour Mediation as a Diplomatic Tool

As Figure 10.4 depicts, frontline state bureaucrats initially utilise non-binding labour mediation as a diplomatic tool for settling labour/employment conflicts, rather than directly filing a labour or criminal case against the employer (depending on the case). While the foreign affairs ministries in the Gulf countries prohibit sending-state bureaucrats from communicating with local and expatriate employers, frontline state bureaucrats still offer labour mediation support to all domestic workers while upholding a blacklisting method to discipline employers who deliberately fail to uphold the contractual rights of a domestic worker. As Cynthia, a frontline state bureaucrat in Qatar, notes:

If they are found guilty and do not comply with court rules, non-Qatari employers, too, can be deported. We exert more pressure on these expatriates because they employ more domestic workers than the local Qatari populations. For those unsettled cases, we tend to mediate or file more cases at the local police stations and civil courts to make them accountable for the nonpayment cases. We often work with local police authorities to go into these employers' houses or villas and enforce the courts' order to repay the unpaid salary to the domestic workers. We follow up with them along with the domestic workers to obtain unsettled salaries, benefits and other personal belongings of domestic workers (Personal interview, June 12, 2011).

Despite its non-binding status, frontline state bureaucrats have been able to leverage the temporary immigration status of employers to make them participate in labour mediation. My fieldwork findings suggest that labour mediation can be an effective strategy to make employers and labour recruiters accountable if domestic workers have legal employment status. A former Philippine DOLE Secretary, Patricia Sto. Tomas (2008) acknowledges that a "regular, organised, and documented migration is the best starting point for workers' protection." Thus, the legalised status of a domestic worker in the Gulf country is a critical pre-requisite for labour protection, whereafter frontline state bureaucrats can utilise labour mediation as a tool to maintain good diplomatic relationships with all stakeholders and uphold workers' rights in the host country.

Rise of Administrative Procedures

Frontline state bureaucrats have also developed administrative procedures such as a "48-hour policy ban," a burden sharing strategy used to reinforce contractual obligations, particularly targeting labour agencies in the Gulf countries and the Philippines. This 48-hour policy ban refers to an informal policy rule employed by frontline welfare bureaucrats to force labour recruiters to address domestic worker cases within 48 hours. As Mark, one such bureaucrat in Qatar, recalls: "We have to push our own administrative regulations to force agencies to respond to their legal responsibilities. We are tough with our policies so we can make sure that domestic workers' rights and cases can be expedited. If we don't use our 48-hour policy ban, these non-abiding agencies would continue to exploit workers and bypass our labour regulations in the host country" (Personal interview, June 27, 2015). This policy critically produces tension between labour agencies and frontline welfare bureaucrats because failure to address domestic worker cases inevitably

“blocks” all labour agencies’ visa processing applications in the Philippines. Equal charges are then imposed on both agencies (i.e., in the form of plane ticket fees or unpaid salaries) if they fail to address runaway domestic worker cases during labour mediation. For example, when, after six months, Perla ran away from her employer due to unpaid salary and accommodation issues, frontline state bureaucrat in Qatar Precy called the labour agency and employer together for labour mediation and used the 48-hour policy ban to force labour agencies to fix the worker’s case, which eventually forced the agency to return Perla’s unpaid wages. Such a burden-sharing approach has enabled frontline state bureaucrats to reduce domestic work caseloads and uphold labour protection for domestic workers in the host country.

Informal (Wasta) Networks as State Tools

The role of informal networks has also been an effective diplomatic strategy for frontline state bureaucrats in addressing the most difficult labour cases relating to Filipina domestic workers. As “conduits,” frontline state bureaucrats have local knowledge of the most influential Gulf families. As one such bureaucrat Jenny acknowledges:

Having lived here for 20 years now, I know the most relevant families in Qatar. When I see a Qatari employer seeking a domestic worker, I treat them differently because I know they could be of great help to us. I extend a favour by expediting their documents and making sure that they obtain whatever things they need from us” (Personal interview, March 15, 2012).

Such local knowledge of Qatari families is very critical because it helps them identify potential informal yet powerful networks crucially necessary to expand institutional and political connections. This proved to be a positive factor when, for example, one Filipina domestic worker Janice became pregnant (which is illegal in Qatar) and was imprisoned due to certain illicit affairs. Due to alarming caseloads and the rapid job rotation of frontline state bureaucrats, Janice’s case was only resolved when a Muslim frontline state bureaucrat, Antoniao, leveraged her established friendship with an official, who she personally assisted to resolve the case. These informal networks enable solutions to mitigate the risky positions that could have translated into dysfunctional roles otherwise, signifying their usefulness in exerting control and their capacity to realise Philippine state policy objectives. Despite institutional constraints, frontline state bureaucrats utilise their local knowledge and informal networks to seek out alternative financial resources for domestic workers, particularly for plane tickets, Arabic translation fees for court

hearings, clothes, and food. They also work closely with local civil society groups and the local Filipino diaspora to close financial gaps.

Conclusion

This chapter has examined the effects of the Philippine state actors' proactive migration protection policy on workers' welfare in the Gulf countries. Drawing from Calavita (1985) and Lipsky (1980), it is argued that the Philippine state's capacity to protect domestic workers has not only become limited, but also has been forced to develop multiple governance practices (such as the 48-hour policy ban, labour mediation, and informal networks) to exert administrative power and control. These practices, however, have become severely limited due to the restrictive diplomatic policies of the Gulf countries, generating ongoing political struggles and negotiations. The presence of these country-specific migration governance practices, human agencies, and administrative negotiations indicate that they are neither absolutely powerless nor fully autonomous under the Gulf *kafala* system. This state behaviour often produces reciprocal and fluctuating power relations with local security and immigration authorities within the broader Gulf labour market economies. Although such structurally determined constraints impact their full administrative capacities, frontline state bureaucrats have accommodated rather than confronted political, economic, and institutional pressures from the Gulf states and other internal stakeholders, enabling them to, in essence, renegotiate—at the implementation levels—the imbalance of power and sustain a competitive advantage within the Gulf domestic work sectors.

Bibliography

- Agunias, D. *Managing Temporary Migration Lessons from the Philippine Model*. Washington, D.C.: Migration Policy Institute, 2008.
- Agunias, D. and K. Newland. *Developing a Road Map for Engaging Diaspora in Development: A Handbook for Policymakers and Practitioners in Home and Host Countries*. Washington, D.C.: Migration Policy Institute, 2012.
- Anderson, B. *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1991.
- Bach, J., & M.S. Solomon. "Labors of Globalization: Emergent State Responses." *New Global Studies* 2 (2008). put in double commas dot inside the comma
- Battistella, G. "Philippine Migration Policy: Dilemmas of a Crisis." *Sojourn* (Singapore) 14 (1999): 229-48.
- Blank, N. "Making Migration Policy: Reflections on the Philippine's Bilateral Labour Agreements." *Asian Politics and Policy* 3, no.2 (2011): 185-205.
- Block, F. *Revisiting State Theory: Essays in Politics and Postindustrialism*. Philadelphia: Temple University Press, 1987.
- Calavita, K. *Inside the State: the Bracero Program, Immigration, and the I.N.S.* New York: Routledge, 1992.
- Chi, X. "Challenging Managed Temporary Labor Migration as a Model for Rights and Development for Labor-Sending Countries." *New York University Journal of International Law & Politics*. 40 (2008): 497.
- Cruz, R.G. "Did DFA Fail OFW Jakatia Pawa?" ABS-CBN News, 2017. <http://news.abs-cbn.com/overseas/01/26/17/did-dfa-fail-ofw-jakatia-pawa>.
- David, M. and C. Sutton. *Social Research in the Basics, Introduction to Qualitative Data Analysis*. SAGE Publications, 2004.
- Fernandez, B. "Essential yet Invisible: Migrant Domestic Workers in the GCC Countries." GLMM Explanatory Note, 4/14. http://gulfmigration.eu/media/pubs/exno/GLMM_EN_2014_04.pdf.
- Fitzgerald, D. "Inside the Sending State: The Politics of Mexican Emigration Control." *International Migration Review* 40 (2006): 259-293.
- Gamlén, A. "The Emigration State and the Modern Geopolitical Imagination." *Political Geography* 27 (2008): 840-856.
- Go, S. "Fighting for the Rights of Migrant Workers: The Case of the Philippines in Organization for Economic Cooperation and Development & and

- Switzerland." *Migration for Employment: Bilateral Agreements at a Crossroads*. Paris: OECD, 2004.
- Gonzalez, J. L. *Philippine Labour Migration: Critical Dimensions of Public Policy*. Singapore: Institute of Southeast Asian Studies, 1998.
- Jureidini, R. 2010. "Trafficking and the Migrant Contract Workers in the Middle East." *International Migration* 48 no. 4 (2010): 142-163.
- Kanaan, Z. "Concerns Grow over Domestic Workers' Rights." *Kanaan Post*, October 26, 2011.
- Kapiszewski, A. *Native Arab Population and Foreign Workers in the Gulf States: Social, Economic and Security Issues*. 1999.
- Keohane, R. and J. Nye. "Power and Independence Revisited." *International Organization* 41, no. 4 (1987): 725-753.
- Kraków: Towarzystwo Autorow i Wydawców Prac Naukowych Universitas.
- Kuwait Times*. "Minimum Salary for Filipino Domestic Helpers Stays at USD \$400: Labor Attache – Policy Unchanged after Kuwait Adopts KD 60 Minimum Wage." 2015. <http://news.kuwaittimes.net/website/minimum-salary-philipino-domestic-helpers-stays-400-labor-attache-policy-unchanged-kuwait-adopts-kd-60-minimum-wage/>.
- Lindio-McGovern, L. "Alienation and Labor Export in the Context of Globalization." *Critical Asian Studies* 36 (2004): 217-238.
- Lipsky, M. *Street-level Bureaucracy: Dilemmas of the Individual in Public Services*. New York: Russell Sage Foundation, 1980.
- Malit, Jr. F. and Ghafoor, S. "Domestic Work Legislation in the Gulf Countries: A Comparative Policy Review" (online). 2014. Available <http://www.igohr.org/domestic-work-legislation-in-the-gulf-cooperation-council-gcc-a-comparative-policy-review/>.
- Malit, Jr. F., M. Al-Awad and G. Naufal. "Protection by Informal Diplomacy: Structural Constraints and Coping Mechanisms of an Emigration State in Qatar" (forthcoming, 2018).
- Malit, Jr. F. and G. Naufal. 2016. "Asymmetric Information under the GCC Kafala Sponsorship Programs: Impacts on Foreign Domestic Workers' Income and Employment Status." *International Migration* 54, no. 5 (2016): 76-90.
- Martin, P., M. Abella, & E. Midgley. "Best Practices to Manage Migration: The Philippines." *International Migration Review* 38 (2004): 1544-1559.

- Massey, D. S. "International Migration at the Dawn of the Twenty-First Century: The Role of the State." *Population and Development Review* 25 (1999): 303-322.
- Meyers, E. "Theories of International Immigration Policy - A Comparative Analysis." *International Migration Review* 34 (2000): 1245-1282.
- Parrenas, R. S. "Transgressing the Nation-State: The Partial Citizenship and 'Imagined (Global) Community' of Migrant Filipina Domestic Workers." *Signs* 26 (2001): 1129-1154.
- Philippine Overseas Labour Office (POLO). "OFW-Wards Update: Migrant Workers and Other Filipino Resource Center." 2014. Unpublished data.
- Philippine Overseas Employment Administration (POEA). "OFW Statistics." 2017. Available at: <http://www.poea.gov.ph/ofwstat/ofwstat.html>.
- POEA. "Republic Act No.8084 Migrant Workers and Overseas Filipinos Act of 1995" (online). 2012. Available at: <http://www.poea.gov.ph/rules/ra8042.html>.
- Rodriguez, R. M. *Migrants for Export: How the Philippine State Brokers Labor to the World*. Minneapolis: University of Minnesota Press, 2010.
- Ruiz, R. "Don't Hire Our Maids if You Can't Pay, Philippine Ambassador Tells UAE." *The National*, 2012. <http://www.thenational.ae/news/uae-news/dont-hire-our-maids-if-you-cant-pay-philippine-ambassador-tells-uae>.
- Skocpol, T. "Bringing the State Back In: Strategies of Analysis in Current Research." In *Bringing the State Back In* eds. Peter Evans, Dietrich Rueschemeyer, and Theda Skocpol. Cambridge: Cambridge University Press, 1985.
- Skocpol, T., & K. Finegold. "State Capacity and Economic Intervention in the Early New Deal." *Political Science Quarterly* 97 (1982): 255-278.
- Shah, N. M. "Gender and Labour Migration to the Gulf Countries." *Feminist Review* (2004): 183-185.
- Solomon, M.S. "State-led Migration, Democratic Legitimacy, and Deterritorialization: The Philippines' Labour Export Model." *European Journal of East Asian Studies* 8 (2009): 275-300.
- Sto. Thomas, P. "Protecting Migrant Workers from the Philippines." ILO Asian Regional Programme on Governance of Labor Migration. Working Paper No.21, 2009. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_105098.pdf.

Migration to the Gulf: Policies in Sending and Receiving Countries

International migration is a ubiquitous reality in the Gulf states where foreign citizens are a majority in the workforce as well as in the total population of several states. Migration is instrumental in the Gulf nations' prosperity and at the same time regarded as a challenge to their identity. For many countries of origin in Asia, the Arab world and East Africa, migration to the Gulf is an integral part of the daily lives of tens of millions and a constitutive element of economies and societies.

On the sending side, there is a widespread view that emigrants serve the prosperity of their nation, through financial remittances, enhanced skills, and enlarged business networks, and that they must be protected in the countries where they live. State institutions have been created to look for migration opportunities and to defend the rights of their expatriate nationals in terms of living and working conditions. Fair recruitment and decent work have become an integral part of their agenda. Emigration is now regarded as a resource for national economies in the same way as trade, and a matter for external policies and politics.

On the receiving side, Gulf policies must address the challenge of admitting contract workers needed by ambitious development programmes and welfare goals, while tackling a number of migration-related imbalances: too much dependency on foreign labour; too few women in the labour force; too much unused education and wasted skills among nationals; too much money flooding out of the country in the form of workers' remittances; and too rigid regulations ending up in high levels of irregularity.

This book is about policies designed to regulate migration and protect the migrants and enable them to contribute to the prosperity of the Gulf and the development of their home countries. It brings unique knowledge to all those striving to improve current systems, from a state's as well as a migrant's perspective.

