Protecting the rights of Filipina Migrant Workers: An analysis of bilateral labour agreements between the Philippines and Canada

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Abstract

The Philippines is one of the largest labour sending countries in the world, sending a large number of migrant workers abroad every year, including Canada. As such, the Philippines has created and implemented labour export policies to address the protection of its workers' rights abroad. One of the tools the Philippines utilizes to ensure this are bilateral agreements with a select number of receiving countries. This paper will examine how pursuant Canadian bilateral agreements are with respect to Filipina migrant workers rights as established in the The Migrant Workers and Overseas Act. This will be achieved through the analysis of bilateral labour agreements between the Philippines and Canada in reflection of the Philippines' labour migration export policies, namely the Migrant and Overseas Workers Act. By conducting a policy analysis of the Memorandum of Understandings (MOU) between the Philippines and Manitoba, British Columbia, Saskatchewan, Alberta, and Yukon, this paper highlights the lack of enforcement of the protection of Filipino migrant workers' rights and gender sensitive elements in the agreements, important elements of the Migrant and Overseas Workers Act. The reality of Filipina workers' rights in Canada are discussed despite the existence of these MOUs.

Keywords: The Philippines, TFWP, labour migration, immigration, gendered migrant rights, bilateral labour agreements, labour export policies.

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Introduction

Labour migration is one of the many ways in which international relations intertwine with domestic affairs. Migrant workers leave their homes for better economic opportunities to fill in the labour shortage gaps in receiving countries while also sending money back home to their families. The mutual benefits reaped between sending countries and receiving countries elevate the need for agreeable labour agreements to carry out labour migration operations. One of the mechanisms to negotiate working conditions between both states is the creation of bilateral labour agreements. Migrant workers are without a doubt at the center of these bilateral agreements with policies varying from working conditions to pay to approved periods of stay in receiving countries.

One of the methods of governance between labour sending and receiving states is also through bilateral agreements. Both states approach the agreements with overlapping but different priorities for labour migration. According to Testaverde et al. (2017), bilateral agreements and Memorandum of Understandings (MOUs) "provide the basis for sending and receiving countries to reconcile their interests and align their legislative and institutional frameworks, although these agreements can suffer from the same inefficiencies" (p. 18). MOUs are defined as:

> *"An international instrument of a less formal kind. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. It is typically in the form of a single*

instrument and does not acquire ratification. MOUs entail general principles of [PL1] *Acooperation describing broad concepts of mutual understanding, goals and plans shared by the parties. They are usually non-binding instruments."* (Wickramasekara, 2015, p. 13; UN Treaty Collection).

Canadian labour migration policies, specifically Canada's Temporary Foreign Worker Program (TFWP), provide labour opportunities for migrants to come to Canada and work in areas with high labour demands. In 2019, there were approximately 470,000 foreign nationals with work permits (Lu, 2020). A select group of migrant workers can use this opportunity toward receiving their permanent residency and/or to support their dependents back home through remittances. The latter evidently links economic interdependence between a migrant-receiving country such as Canada and sending countries such as the Philippines (Rodriguez, 2010). In 2021, the Philippines received a record of $36.69 billion in personal remittances, which accounted for 9.3% of its Gross Domestic Product (GDP) (World Bank, 2021). Despite the economic benefits for migrant workers, there have been increased reports over the years of the exploitation of migrant workers, poor working conditions, low wages, and lack of protection against employers. Other barriers include administrative challenges, inability to legally unionize, and the absence of guarantee of Permanent Residency.

The Philippines has had labour export as one of its primary economic strategies since 1974. It is one of the largest labour sending countries, just behind China and India, with an estimated 1.83 million Filipino migrant workers living abroad from April to September 2021 (Philippine Statistics Authority, 2022). In the face of labour migration, many sending countries in

Asia are caught between balancing promotion of labour export and protection of rights (Ruhs, 2013). As such, the Philippines has been participating in the international call outs for the creation of minimum standards that would be applicable to all overseas migrant workers. It was one of the only countries, and the first major Asian sending country, to sign and ratify the UN International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families in 1995 (Blank, 2011; Ruhs, 2013).

According to Ruhs (2013), labour immigration policies are created in receiving countries but have significant consequences for sending countries. However, the opposite may be the case with the Philippines. Using the case of Canada and the Philippines, Canada's largest labour receiving country, this paper wishes to address the question: *How has the pursuit of bilateral agreements between the Philippines and Canada impacted rights protections for migrant workers?*

The Philippine's labour export policies will be used, namely The Migrant Workers and Overseas Act, to analyze the country's bilateral agreements with Canada's provinces that currently have MOUs with the labour sending country. This paper will primarily discuss domestic workers and caregivers as they are the largest migrant export group from the Philippines to Canada. This paper also chose to highlight and predominantly use the case of gendered labour categories to reflect the gender-sensitive aim of the Philippines' Migrant Workers and Overseas Act. Based on the labour agreements, this paper wishes to examine how pursuant Canadian bilateral agreements are with respect to Filipina migrant workers rights as established in the The Migrant Workers and Overseas Act.

First, historical context will be given on the history of labour export in the Philippines, the increased need for foreign workers in Canada as part of the Temporary Foreign Workers Program (TFWP), and a brief background of Canada's labour relationship with the Philippines. Next, a literature review of the Philippines' bilateral labour agreements will be provided. Labour export policies in the Philippines on migrant workers' rights and its amendments will then be analyzed and discussed. A section on the Migrant Workers and Overseas Act will be presented to highlight the inclusion of bilateral agreements in the policy. The analysis and comparison of Canadian provinces' MOUs with the Philippines to The Migrant Workers and Overseas Act will then be conducted using policy documents provided. The reality of migrant workers' rights, particularly in the domestic work and caregiving sector, will be discussed to provide insight on the enforcement of these agreements in practice. This includes the barriers to reporting violations and the benefits of including clear directives on the enforcement of workers' rights in MOUs to better reflect the Migrant Workers and Overseas Act. Lastly, policy recommendations will be provided on existing and future bilateral labour agreements, including creating bilateral labour agreements with additional Canadian provinces and making the MOUs legally binding.

Methodology

The method used in this paper is a policy analysis of the bilateral labour agreements between the Philippines and Canada. To conduct my analysis, I will be examining the MOUs of Manitoba, Saskatchewan, British Columbia, Alberta, and Yukon. In particular, I will be analyzing how these agreements approach the protection of migrant workers' rights as pursuant to the Migrant Workers and Overseas Act in the Philippines. The similarity in language and directives in these policies will be assessed to determine the enforcement of the protection of migrant workers' rights in these Canadian provinces. The origins of the Migrant Workers and Overseas Act (RA8042) will first be provided to contextualize why female migrant workers' rights is the nucleus of the policy. The Act will then be analyzed with regard to its policies on bilateral labour agreements, and its amendments (RA10022) will also be examined.

The analysis of the Canadian MOUs will be presented with the first three provinces grouped together, as they share very similar agreements in structure and wording. Alberta will follow and the most recent agreement, Yukon will conclude the section. This will follow a literature review of the existing literature and studies on Philippine bilateral labour agreements, particularly with the aforementioned Canadian provinces.

Historical Context and Background

Filipino Labour Migrant Export: An Economic Strategy

The modern era of labour migration in the Philippines initiated during a debt crisis under the Marcos regime (O'Steen, 2021). The introduction of the practice of the mobilization of citizens to work abroad by the Philippine state stems from a neoliberal strategy that allows: citizens to gain wages and employment opportunities, fills in the labour gap in overseas employers, and ultimately, contributes back to the state's economy through remittances (Rodriguez, 2010). According to Rodriguez (2010), it is a form of "brokerage" as labour exports are negotiated in agreements between the Philippines and receiving states, often confining labourers to work for a specified period of time before returning home at the end of their contracts. While there are a large number of labour migrants in the world, workers from the Philippines are especially distinguished as the country is known as the "world's premier 'global enterprise' of labour" (Rodriguez, 2010, p. 11).

The Philippines' national economic strategy of sending migrants abroad to work overseas was first implemented in 1974 as a response to widespread unemployment in the country and to secure a source of foreign currency (Semyonov, 2005). More specifically, the state introduced labour export for political reasons in an attempt to dissuade growing dissent amongst the urban youth, who had the largest share of unemployment at the time (Maca, 2018). Their protests had launched the First Quarter Storm, a period of civil unrest, during the first quarter of 1970 (Maca, 2018). The state's labour brokerage strategy is in part reliant on maintaining migrant workers'

ties to the Philippines as they leave their families and settle with their employers (Rodriguez, 2010). The familial connection ties are extremely important as they strengthen ties back to the homeland and the remittances are vital to the country's economy.

The Philippines first made remittances mandatory in the 1980s after total foreign debt accumulated to $42.8 billion in 1983 (Rodriguez, 2010). Executive Order 857 required workers abroad to send remittances through the Philippine banking system (Rodriguez, 2010). Workers could face punitive measures if their earnings were not remitted back home. In July 2009, remittances exceeded top export products such as clothing and coconut oil by $1.815 billion USD and $1.860 billion, respectively, signifying the importance of remittances in the Philippines (Rodriguez, 2010). These remittances are used to recover the government's foreign exchange reserves, incurred debts with international financial institutions such as the World Bank and the International Monetary Fund (IMF), private banks, and structural adjustment programs (SAPs) (Rodriguez, 2010). The significance of remittances to the Philippine economy and individual families are what drives migrant workers overseas and the Philippine government to encourage labour exportation.

Following the remittances mandate in 1983, the existing migration agencies consolidated to form the Philippine Overseas Employment Administration (POEA). The POEA, now merged with the Department of Migrant Workers, is responsible for the administration of the overseas employment programs in the Philippines and for ensuring the rights and welfare of Filipino migrant workers. Its mission is to connect to the world and "in partnership with all stakeholders, facilitates the generation and preservation of decent jobs for Filipino migrant workers, promotes

their protection and advocates their smooth reintegration into Philippine society" (DMW, 2023). The POEA works with overseas governments in the process of the establishment of labour agreements.

Historical Origins of Filipino Labour Migration

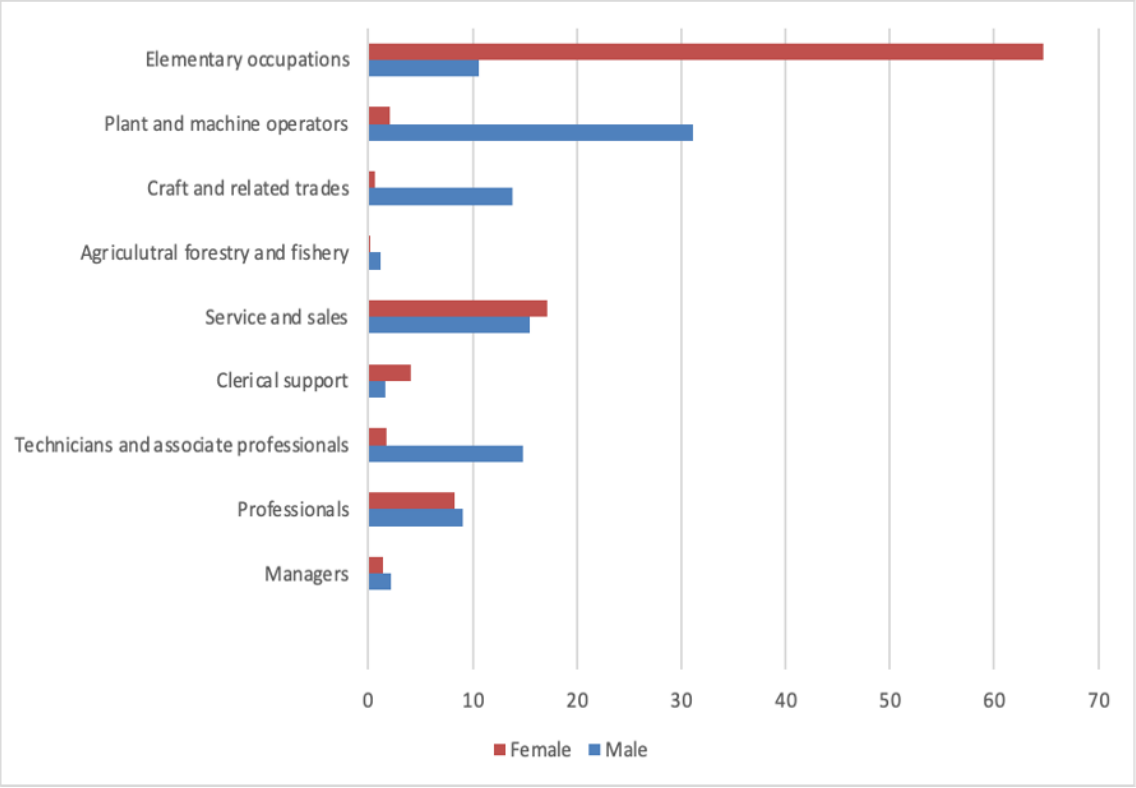
Although the formal beginning of labour migration started in the 1970s, there have been historically four substantive waves of labour migration in the Philippines years before that and prior to the Migrant Workers and Overseas Act of 1995. The first being the Manila-Acapulco Galleon Trade, in which workers occupied jobs on trade ships (Cuenca, 1998). The next wave was when an influx of Filipinos migrated to Hawaii to work in the plantations. At the same time, many migrants also travelled to the United States to study and train or work in restaurants, railroads, and so on (Cuenca, 1998). The third comprised those flocking to the United States after World War II due to the unrestricted travel as former colonials, as well as medical workers to Australia and Canada (Cuenca, 1998). And finally, work opportunities emerged in Middle Eastern countries amidst the demand for oil and as these countries searched for cheap labour (Cuenca, 1998).

The export of domestic migrant workers from the Philippines can be historically stemmed from colonialist practices. During the third wave of migration, many Filipino and Filipina workers were drawn to the United States for higher education (Cuenca, 1998). Particularly, the migration of nurses from elite families were sent to the United States by the colonial government to undergo a training program at the beginning of the twentieth century (Rodriguez, 2010).

Studying and training in the United States would eventually come to be known as a means to gain upward mobility in the Philippines (Rodriguez, 2010). Some of these training programs have prepared caregivers to participate in Canada's Live-In Caregiver program in the early 2000s (Rodriguez, 2010). The number of Filipina labour migrants grew exponentially over the years largely due to the rise in demand for domestic labour in the international economy and the lack of employment opportunities for women in the Philippines (Semyonov, 2005). In 2021, over 60 percent or 1.1 million overseas Filipino workers were women (Philippine Statistics Authority, 2021). Moreover, approximately 65 percent of Filipina migrant workers occupied elementary occupations in 2021 (Figure 1). Per the Philippine Statistics Authority (2021), Elementary Occupations is defined as "the performance of simple and routine tasks which may require the use of hand-held tools and considerable physical effort. It includes cleaning, restocking supplies and performing basic maintenance in apartments, houses, kitchens, hotels, offices, and other buildings; washing of cars and windows; helping in kitchens and performing simple tasks in food preparations; delivering messages or goods; carrying luggage and handling baggage."

The rising increase for gendered labour and subsequently, the number of Filipina workers shed light on the need for the Phillipine government to recognize the gender specific issues and address the necessity for the protection of workers' rights abroad.

Figure 1: Percent Distribution of Overseas Filipino Workers by Major Occupation Group and Sex (2021)



Source: Philippine Statistics Authority, 2021.

The Administration of Migrant Workers' Rights

Different legislations to protect the livelihoods and rights of migrant workers from the Philippines developed since the introduction of labour export. The Labour Code was created in 1974 as a compromise between the promotion of exporting labour migrants and workers' welfare (Cuenca, 1998). In Article 3, it mentions that "The State shall assure the rights of the workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work" (Cuenca, 1998, p. 31) The Labour Code also defined the roles and responsibilities of the POEA and the DOLE, and the limitations on recruitment. In 1995, the Migrant Workers and

Overseas Act was enacted which set the legislative precedent for the protection of migrant workers' rights and welfare when overseas. The Migrant Workers and Overseas Act's origins and analysis will be discussed in further detail in the section on the Philippines Labour Export Policy.

While the POEA is the main administrative agency for overseas workers, bilateral labour agreements have been written between the Canadian provincial governments, through their ministries of labour, and the Department of Labour and Employment of the Republic of the Philippines (DOLE). The DOLE's primary goals are "to promote gainful employment opportunities, develop human resources, protect workers and promote theri welfare, and maintain industrial peace" (DOLE, 2023). These agencies work collaboratively with Canadian labour agencies to facilitate labour agreements, onboarding, and other issues that may arise.

Canada's Temporary Foreign Worker Program (TFWP)

Canada receives migrant workers from abroad through its Temporary Foreign Worker Program (TFWP).The intake of temporary migrant workers to fill in employment gaps temporarily in Canada dates back to 1973 (May, 2016). It was originally created as a pilot project in 2002 by the Liberal government as a temporary solution to the labour gap in Canadian industries such as manufacturing and trades (Tungohan, 2018). The program grouped together the already existing temporary labour migrant programs in Canada under one umbrella term. As demand increased, the program was continuously renewed and prolonged. Within this program, the state has agreements with specific countries in various fields of employment as required. Prior to 2014, under the TFWP umbrella, there were programs specific to labour categories. This

included the Live-In Caregiver Program. Since the reforms to the TFWP introduced in June 2014, there are currently four streams in which employers can apply for the TFWP: the high-wage stream, the low-wage stream, the primary agriculture stream, and the stream to support permanent residency (May, 2016).

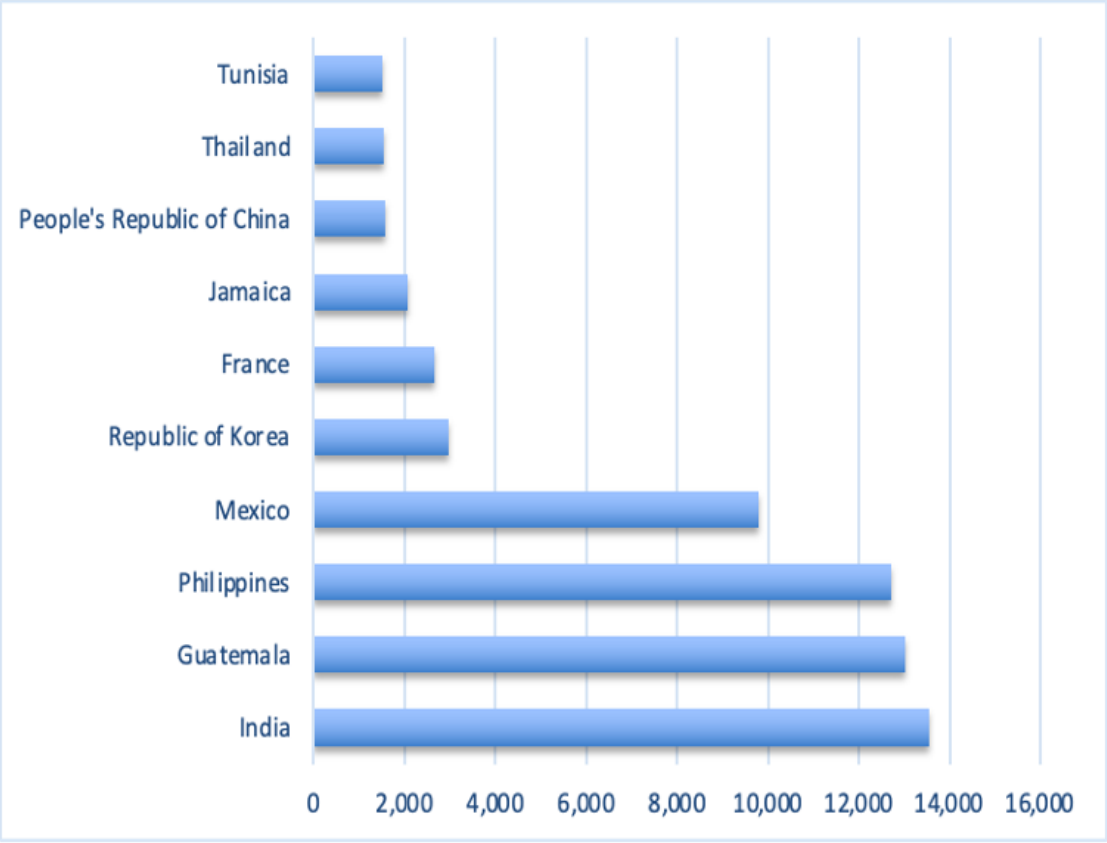
The TFWP has been subjected to controversy surrounding the abuse of temporary migrant workers by migrant advocates. Since employers have the ability to nominate migrant workers for Canadian Permanent Residency, they can use their sponsorship as incentive to ensure workers are compliant (Tungohan, 2018). Furthermore, while migrant workers are entitled to the same labour rights as a regular worker under the TFWP, the binding of employers-employees makes these rights difficult for migrant workers to enjoy as they can only work for the employer that sponsored their work permit (Tungohan, 2018). As such, many workers would prefer to stay with an abusive employer than risk their employment and being sent home (Tungohan, 2018). This process and the enforcement of rights in labour agreements will be discussed in further detail in later sections.

Labour Relations between the Philippines & Canada

The Philippines is currently Canada's third largest sender of labour migrants, with 12,725 TFWP permit holders in 2021 (Figure 2). This is approximately 3% of temporary migrant workers with approved work permits. As the Philippines does not have a labour agreement with the federal government of Canada, dealing directly with the provincial governments seems to be the preference. The existing bilateral agreements between the Philippines and certain provinces

do not specify migrant categories and therefore, indirectly refer to some of these programs under the TFWP. The largest migrant category in Canada that Filipino workers occupy are domestic workers (including caregiving) and nurses. Canada began to receive migrant workers from the Philippines to fill in labour gaps and amidst the demand for workers in particular fields. Various provinces who have MOUs with the Philippines have praised the effectiveness of the migration programs. For example, Alberta's Immigration Minister Hector Gordeau stated in 2008 that "the Philippines has been a significant contributor to the economic success of Alberta as a major source of workers to the province" (Tungohan, 2018, p. 245).

Figure 2: Top 10 origin countries of TFWP permit holders in Canada (2021)



Source: Jeudy, Statisa Research Department via Government of Canada, 2021.

Filipina labour migrants started to arrive in Canada to work in the TFWP to meet the demand and fill in the labour gaps in gendered labour roles. One of the labour migration streams that existed in the TFWP was the Live-In Caregiver program. Established in 1992 following the Foreign Domestic Worker Program, it was a program that allowed workers to migrate to Canada to provide care services to children, the elderly, the sick, and/or disabled while living at their employer's home. Many nurses from the Philippines in British Columbia used the Live-In Caregiver program at the time as a "stepping stone" to enter Canada (Salami et al., 2014, p. 68). This can be attributed to the ability for caregivers to qualify for Permanent Residency after a minimum of twenty-two months of work in the program. However, the road to Permanent Residency in many provinces has been plagued with bureaucratic obstacles. In Ontario, it was reported to take between three to seven years to gain Permanent Residence status (Salami et al., 2014).

While the Philippines has bilateral agreements with four Canadian provinces and one territory, it does not have any with the rest of the country, namely two provinces with the largest number of temporary migrant workers: Ontario or Quebec who saw 33,000 and 23,000 migrant workers in 2021, respectively (Canada, 2021). Nonetheless, these provinces continue to welcome Filipino labour migrants.

Philippines Labour Export Policy

The Migrant Workers and Overseas Act (RA 8042) (1995)

The Migrant Workers and Overseas Act (Republic Act No. 8042), hereby referred to as the Migrant Workers Act, was enacted in 1995. The implementation and passing of the Migrant Workers Act was from a gendered position. It "mandated many policies very specifically related to better 'protecting' women migrants" (Rodriguez, 2010, p. 104). The policies were created following two high-profile cases of Filipina workers who were killed in Singapore, the United Arab Emirates, and Japan. In 1995, Flor Contemplacion recevied a death sentence by the Singaporean government for the alleged murder of another Filipina domestic worker and the child under her care (Rodriguez, 2010). Protesters urged the government to take action as they believed Contemplacion was falsely accused. This followed a similar case in which a Filipina domestic worker was charged for killing her rapist and abusive employer. In Japan, Maricris Sioson's cause of death by Japanese authorities was ruled as hepatitis but an autopsy conducted by the Philippine National Bureau of Investigation determined that the entertainment worker was tortured (Cuenca, 1998). These incidents led to significant public outcry for the government to re-evaluate the protection of migrant workers' rights in receiving countries (Cuenca, 1998).

The near deterioration of the relationship between the Philippines and Singapore, a country that receives a large number of migrant workers, also ensued. These events preceded the formation of a national commission that travelled to sending countries to create studies on

migrant workers deployed. The commission held an instrumental role in advocating for the Migrant Workers Act (Cuenca, 1998).

Additionally, Rodriguez (2010) notes that while grassroots activists played an instrumental role in mobilizing protestors and calling for the state's action on Contemplacion's execution, it was "the anxieties registered by the Philippine middle classes, the church, social reformers, professional NGO activists, and scholars" and their policy recommendations that were the most decisive in the implementation of the Migrant Workers Act (p. 95). The Migrant Workers Act developed two unprecedented provisions: making the Act applicable to both documented and undocumented workers and establishing illegal recruitment as a crime with those punished facing life imprisonment (Cuenca, 1998).

Section 4 of the The Migrant Workers Act (RA 8042) listed the following conditions under which the Philippine state would deploy its overseas workers:

> *(a) It has existing labour and social laws protecting the rights of migrant workers;*
> *(b) It is a signatory to multilateral conventions, declaration or resolutions relating to the protection of migrant workers;*
> *(c) It has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers; and*
> *(d) It is taking positive, concrete measures to protect the rights of migrant workers.*

As outlined in the Migrant Workers Act (RA 8042), one of the options for receiving countries to demonstrate that there is a guarantee of the protection of Filipino overseas workers' rights is that "it has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers." However, in 2007, the Philippines only conducted bilateral agreements with 13 out of 197 countries that receive migrant workers (Blank, 2011). Even after the Migrant Workers Act was amended in 2009, the current number of countries the Philippines participates in bilateral agreements with has not changed. It should be noted that the state does not have bilateral agreements with some of the Philippines' most significant destinations for workers such as Singapore, Japan, and Saudi Arabia (ILO, 2013). The latter country of which has been widely reported for their lack of protection for foreign workers' rights. By 2011, Singapore and Saudi Arabia, as well as the United Arab Emirates, Qatar, Kuwait, and Bahrain were not included in a list of either eligible or banned destination countries according to Section 4 (Ruhs, 2013). Instead, they were identified as "conditionally compliant" and the state provided them additional time to amend their laws to ensure the protection of migrant workers' rights (Ruhs, 2013). This calls into question how enforceable and put into practice the Migrant Workers Act is and will be explored further using Canada in the proceeding sections.

Furthermore, there have been critiques of the accuracy of the Act. For example, section 2(b) of the original RA8042 of the Act states that the Philippines government "does not promote overseas employment as a means to sustain economic growth and achieve national development." This has not been demonstrated to be the case as we have seen in previous

sections how vital remittances are to the state's economy. Moreover, labour brokerage is one of the state's main strategies to combat foreign debt and economic recovery while saecuring foreign currency. According to Walden Bellow, the congressperson and chair of the Parliamentary Committee on Overseas Workers Affairs in 2011, the state's foreign policy "has been reduced to one item: promoting the export of our workers and securing their welfare abroad" (Ruhs, 2013, p.141). The Act also does not outline how to enforce these guarantees and what consequences there might be if the receiving country were found to not be in compliance, as most bilateral agreements are not legally binding.

Amendments to the Migrant Workers and Overseas Act (RA10022) (2009)

The Migrant Workers Act was amended in 2009 with the amended version titled the Migrant Workers and Overseas Act (Republic Act No. 10022). Some of the most important amendments include the recognition of trade unions, stakeholders, workers association and similar entities along with non-governmental organizations as legitimate partners of the state in protecting Flipino migrant workers and promoting their welfare. Additionally, removing cost barriers related to skills and training and courts. Another amendment was the additional details in Section 1(a):

> *"...the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular,* ***continuously monitor international conventions, adopt/be signatory to and ratify those that guarantee***

protection to our migrant workers, and endeavor to enter into bilateral agreements with countries hosting overseas Filipino workers."

The amendment to include the ways in which the state will monitor conventions and treaties to guarantee the protection of migrant workers' rights improves the original RA8042 and decreases ambiguity as the Philippine government indicates exactly how it intends to uphold the dignity of Filipino migrant workers. Overall, RA 10022's amendments provide additional details to the RA8042 and enhance the Philippine government's stance on the protection of migrant workers' rights overseas.

The main policy I wish to highlight from the amended Migrant Workers Act is Section 4 on the deployment of overseas Filipino workers only to countries that can guarantee protected rights of migrant workers. According to the Act, the state recognizes any of the following from the receiving country as a guarantee for the protection of Filipino migrant workers' rights:

"(a) It has existing labour and social laws protecting the rights of workers, including migrant workers;
(b) It is a signatory to and/or a ratifier of multilateral conventions, declarations resolutions relating to the protection of workers, including migrant workers; and
(c) It has concluded a bilateral agreement or arrangement with the government on the protection of the rights of overseas Filipino workers"

In reference to these three options of guarantee, section 4(c) was amended to include "provided that the receiving country is taking positive, concrete measures to protect the rights of migrant workers in furtherance of any guarantees under subsections a, b, and c hereof." While this addition adds another legislative layer of guarantee to hold receiving countries accountable in its action to protect migrant workers' rights, the language is still unclear. The scope of "positive, concrete measures" can still be considered broad and while this may not necessarily be a negative aspect, it does not provide the parameters in which receiving countries must adhere to in terms of enforcing the protection of rights in its bilateral agreements and policies.

Literature Review: Philippine Bilateral Labour Agreements

A bilateral labour agreement in these studies refers to an agreement between two states that establish and define the working relationship and conditions of migrant workers provided by the receiving country. This includes rights, compensation, training, recruitment, and overall welfare of migrant workers. Both receiving and sending countries hold different priorities when entering bilateral labour agreements. Labour receiving countries focus on filling in the labour gaps in specific industries, managing irregular and regular migration, and promoting the cultural political relationship with the sending country (O'Steen, 2021). Meanwhile, sending countries address unemployment, labour market access, and increase foreign capital through remittances (O'Steen, 2021). It also wishes to protect its workers by legislatively ensuring adequate working conditions, fair contracts, and protection of workers' rights (O'Steen, 2021).

There has been an array of literature surrounding bilateral agreements between the Phillippines and receiving countries with regard to labour migration export. Migrants for export and the commodification of labour as a significant contributor to economic recovery in the Philippines are highly discussed. Rodriguez's book is often cited in this subject. In particular, her third chapter demonstrates how Philippine migration officials monitor economic and political trends by neoliberal globalization and how they then "attempt to exploit potential opportunities" for export migrants through market promotions (p.53). Rodriguez (2010) cites Antonio Tujan and labels the Phillipines government's labour export program as "legal human trafficking" (p.10). She describes the export of migrants and their foreign earnings as a source of foreign capital for the state as a "trickle up development" (Rodriguez, 2010, p. 17). Moreover, she also called the codified Migrant Workers and Overseas Act as "migrant citizenship" (Rodriguez, 2010, p. 96).

Bilateral agreements between the Philippines and receiving countries amidst the emergence of migration management introduces the concept of "labour diplomacy" and the involvement of third parties, such as the International Organization of Migration in Manila, to gain "maximum advantage from labour export and import" (Rodrigues, 2010; Barber et al., 2017). As such, bilateral agreements have been the preferred method by the Philippine government for the guarantee of protection of workers' rights (Blank, 2011). At the same time, other organizations may have different stances on bilateral agreements. Recruitment agencies are more likely to be against bilateral agreements as they would rather negotiate details and fees without the interference of governments (Blank, 2011). In contrast, non-governmental organizations related to migrant worker welfare have advocated for bilateral agreements;

however, they wish for the agreements to be legally binding to codify the workers' protections (Blank, 2011).

Blank (2011) mentions that bilateral and regional labour agreements are often overlooked and explores how recent bilateral agreements can be studied to have a better understanding of "selling points" that future agreements should emphasize to states uninterested in participating in bilateral agreements (p. 188). His research looked at existing bilateral agreements and MOUs between the Philippines and some of its labour destination partners, including four Canadian provinces. He found that the Canadian MOUs "excelled in their broad inclusion of many job categories, the absorption of costs by employers, openness to permanent settlement, focus on Philippine development, and inclusion of [International Organization for Migration] labour laws" (Blank, 2011, p. 200). However, Blank (2011) critiqued the agreements for lacking the space for future agreement maintenance and cooperation, which could hinder challenges faced in the future.

Some authors view bilateral agreements, namely MOUs, as symbolic policies, as they are difficult to forge and can be viewed as not legally binding international agreements (Blank, 2011; Testaverde et al., 2017; Ghosheh, 2009). Ghosheh (2009) sees bilateral agreements as separate from MOUs in that they are legally binding and maintains that they are the stronger tool while MOUs are the favoured. While bilateral agreements are an essential part of the Philippines' labour export policy, O'Steen (2021) found that based on the literature surrounding bilateral labour agreements and their empirical studies, there does not exist a causal effect between bilateral agreements and the migration of Filipino workers. However, their research was not confounded to test other effects of labour agreements such as improved working conditions,

pre-departure training, sending remittances, and other benefits (O'Steen, 2021). Moreover, Testaverde et al. (2017) described the weaknesses of the Philippines' bilateral agreements to be the insufficient coverage, the lack of civil society participation, and the inadequate addressing of female workers' needs, and the overall vagueness of the agreements. Encinas-Franco (2016) echoes this criticism and argues that the agreements focus too much on recruitment and deployment and should include repatriation and reintegration.

The lack of clear enforcement and implementation of bilateral agreements is also mentioned. Go (2005) argued that merely signing bilateral agreements would not be sufficient and that the government ought to establish "clearer and more specific implementing guidelines" (p. 193). Per Go (2005), after bilateral agreements are signed, the most significant challenge for the Philippine government and receiving country states is the monitoring of agreements' implementation and enforcing any violations.

For gendered labour specific negotiations with regard to agreements with countries that predominantly receive Filipina domestic workers, Khan (2009) and Ghosheh (2009) remarks that bilateral agreements do not include domestic work as a specific migrant category. Specifically, Ghosheh (2009) outlines the reasons for which domestic work is omitted at the policy level. Moreover, Cabanda (2020) found that the mutual recognition of qualifications was "a decisive issue" in the negotiation of labour agreements (p. 422). The recognition of qualifications from the Philippines is essential to upward mobility for female domestic workers and nurses in receiving countries.

As scholars have mentioned, bilateral agreements between the Philippines and its labour receiving countries are fundamental to the working relationship between states, the promotion of labour export for respective economic purposes, and the protection of migrant workers' rights. However, the fact that the agreements and MOUs are not legally binding create obstacles to monitor the enforcement of the guarantees outlined in the agreements. The gaps in the literature on bilateral agreements between the Philippines and receiving countries, such as Canada, that I wish to address center on the guarantee of the protection of migrant workers' rights in the Canadian MOUs and how reflective it is of the gendered dimensions of the Migrant Workers Act. I also intend to bring forth the discussion of Yukon's MOU which was recently signed in 2022 and as such, has yet to be examined in recent literature. The actuality of the execution and enforcement of these rights will also be reviewed in order to recommend amendments and for the creation of labour agreements in the future with regard to workers' rights.

Philippines-Canada Bilateral Labour Agreements: Analysis

As of 2023, the Philippines has bilateral labour agreements in the form of MOUs with Saskatchewan, British Columbia, Alberta, Manitoba, and Yukon. MOUs tend to be less legally binding and less formal than treaty bilateral agreements. For instance, section 2(c) of Manitoba, British Columbia, and Saskatchewan's MOUs state that the agreement "is not intended to be legally binding. "However, it is fitting that the Philippines would choose this route when dealing with Canadian provinces rather than the country as a whole. These would allow the Philippines and the provinces to draw up agreements according to specific individual provincial needs. The bilateral labour agreements set up between the Philippines and certain Canadian provinces

outlined the guidelines for the recruitment of Flilipino skilled workers, although primarily nurses (Cabanda, 2020)

The first MOUs were initiated between 2006-2008. Throughout the negotiation periods for the early agreements, the dominant areas of discussion were "ethical recruitment that includes orderly recruitment, protection of the rights of Filipino migrant workers and human resource development in the Philippines, and mutual recognition of qualifications" (Cabanda, 2020, p. 414). Sub-negotiating committees were also created to zero in on specific issues (Cabanda, 2020). Ministers from both states invited experts from academic institutions, with the Philippines formulating a panel to negotiate areas such as mutual recognition (Cabanda, 2020). Those panelists hailed from areas such as labour, professional regulation, and nursing organizations (Cabanda, 2020). A ministerial-level meeting at the Canadian embassy that took place in the Philippines in 2006 invited a nurse migration scholar (Cabanda, 2020). Representatives from organizations and academic experts on nurse migrant workers throughout the negotiation period may have influenced how well-received the Canadian MOUs were, as discussed in the literature review. For example, the idea of human resource development was brought to Filipino negotiators as an essential component of the agreements by the nurse migration scholar (Cabanda, 2020). As a result, Canadian negotiators agreed to provide capacity building and training of nurses to replace those emigrating to Canada (Cabanda, 2020). Many of the MOUs include a section on human development and providing training to workers in the Philippines. It should be noted that in October 2022, Alberta and the Philippines announced another MOU on the recruitment of additional nurses. As of the writing of this paper, this MOU has yet to be

released on public domain for analysis; however, the Albertan government has agreed to consider creating an Alberta-accredited nursing program in the Philippines (Kost, 2022).

Gendered elements

According to the Philippine negotiators, negotiations with the original provinces on migrant workers' rights were not difficult (Cabanda, 2020). This was due to the fact that the provinces seemed to already possess "a good working environment and highest respect for Filipino migrant-workers, especially for female nurses" (Cabanda, 2020, p. 417). Despite the acknowledgement of gendered labour, the bilateral agreements with the Canadian provinces lack the presence of gender specific policies. Meanwhile, Section 2(d) of the Migrant Workers Act (RA 8042) specifically draws attention to gender specific needs:

> *"...Recognizing the contribution of overseas migrant women workers and their particular vulnerabilities, the State shall apply* ***gender sensitive criteria in the formulation and implementation of policies*** *and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers."*

The Migrant Workers Act (RA 8042) held "gender-sensitive" elements into their migrant workers' policies by including predeparture educational programs for female domestic workers in the hopes that they will be better informed prior to leaving their families (Rodriguez, 2010, p. 96). The Act defined "Gender-sensitivity" as "cognizance of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with concern

for the respective interest of the sexes." Not including gender specific or gender sensitive programs and/or policies undermines the acknowledgement of the significance of Filipina migrant workers in Canada. It is also not pursuant to the Migrant Workers Act. This stems from the issue that most of the MOUs do not specify migrant worker categories and is an umbrella agreement for all migrant workers hailing from the Philippines.

Each provincial MOU will now be reviewed overall to discuss the similarities in language with regard to the protection of migrant workers' rights and welfare as reflected in the Migrant Workers Act. This is to determine if the Philippine state is writing up agreements with its labour receiving partners according to its policies on workers' rights. This will also assess whether the governments describe how they intend to enforce these policies.

Saskatchewan, British Columbia, and Manitoba

The first provincial MOUs in Canada are between the Philippine's DOLE and Saskatchewan's President of Executive Council (ECON), British Columbia's Ministry of Economic Development (ECDV), and Manitoba's Department of Labour and Immigration (LIM). Upon the review and analysis of these MOUs, there are similar general terms for each agreement. This is namely regarding definitions, purpose, recruitment, and costs. Saskatchewan, British Columbia, and Manitoba each have very similar MOUs. British Columbia and Manitoba includes additional details regarding recruitment by specifying that employers in the province can select and hire Filipino workers via the procedures outlined in the MOU provided that the hiring process is pursuant to the Philippine Labour Code. The three MOUs do not specify

specific migrant worker categories and consequently, the Canadian MOUs' inclusion of broad policies that apply to all migrant workers have been praised (Blank, 2011). However, not acknowledging certain migrant categories can also be seen as a shortcoming to the MOUs.

Protection and Enforcement

Section 8 of all three provinces' MOUs provide information on the protection of workers. The section is extremely brief and essentially redirects the protection of workers' rights to the existing laws and regulations in Canada and its respective provinces. While this supposedly guarantees the rights of migrant workers to be equal to that of any worker in Canada, it does not acknowledge the specific needs certain migrant worker categories may have. This is especially significant for gendered labour sectors. For example, as previously discussed, live-in caregivers' workplaces are the residences of their employers. Residence restriction is unique to the live-in caregiver worker category (Khan, 2009). These spaces make migrant workers more vulnerable to abuses, such as physical, verbal, and sexual, due to the intimacy of the workplace and proximity to employers (Brickner & Straehle, 2010).

The three MOUs include brief wording alluding to the enforcement of the protection of workers. This is achieved by adding that the Philippines Overseas Labour Office (POLO) of Filipino workers in Canada may monitor workers after their arrival to ensure workers' protection and welfare. Saskatchewan adds more substance by dictating that should concerns exist, they can be referred to the ECON's Progam Integrity and Legislation Unit, which is the unit that is

responsible for the investigation of workers' abuse and the protection of their rights. Saskatchewan also takes a further step to include enforcement by assuring that:

> *"In accordance with the [Foreign Worker Recruitment and Immigration Services Act] ECON will review complaints received concerning Employers not fulfilling the requirements of their offers of employment or mistreating Workers, and where appropriate,* ***take action under the Act or refer the complaint to appropriate enforcement agencies****."*

By declaring that the government will take action or refer complaints to the appropriate enforcement agencies, Saskatchewan includes specific steps that will be taken to enforce the protection of workers' rights.

Alberta

Alberta's Ministry of Employment and Immigration (E&I) was next to sign an agreement with the DOLE in 2008. Given the advantage of being created and signed after Manitoba, Saskatchewan, and British Columbia, Alberta was able to forge its MOU with seemingly "the most comprehensive coverage of all stages of the migrant worker experience" (Blank, 2011, p. 194). The Alberta MOU has similar policies written to the first three provinces on aspects such as set rules and regulations recruitment agencies. For instance, recruiting costs must be covered by employers and shall not be permitted to charge workers recruitment fees. While Blank (2011) praises Alberta's wording of this policy to explicitly include the best interest of migrant workers,

I would argue that Manitoba, Saskatchewan, and British Columbia's recruitment cost policy is more detailed. Section 5(c) on recruitment of the three provinces' MOUs include the notion that employers are not permitted to lower workers' wages or reduce or remove any benefits to recuperate the associated recruitment costs. This detail is absent in Alberta's MOU.

Protection and Enforcement

Unlike its predecessors, the original Alberta MOU does not have a specific section related to the protection of workers' rights. Workers' rights can be alluded to under the section Cooperation Priorities, paragraph 3:

> *"In pursuing shared priorities for collaboration and cooperation, the* ***Participants will aim to ensure compliance with their respective laws and regulations including, but not limited to, on the part of Alberta the Employment Standards Code and the Fair Trading Act, and on the part of the Philippines the Philippine Labour Code as amended by RA8042*** *and implemented by the 2002 [POEA] Rules and Regulations Governing the Recruitment and Employment of Land-based Overseas Workers."*

This is a shortcoming relative to the other MOUs as it does not hold a clear directive of the guarantee of the protection of workers' rights. The absence of directing readers to consult the existing labour laws under Albertan and federal jurisdictions limits the knowledge and access to rights by workers. Furthermore, Alberta's Employment Standards Code predominately refers to policies related to wages and does not provide specific sections on migrant workers. Meanwhile,

the Fair Trading Act generally discusses the protection of consumers from business practices which can be irrelevant to migrant workers and their employers.

Yukon

The most recent Canadian province to establish an MOU with the DOLE is the Government of Yukon in 2022. With a fourteen-year gap between Alberta and their own MOU, Yukon's MOU deviates by establishing its own structure. Namely, Yukon clearly defines and divides in specific paragraphs the respective responsibilities of the Philippine government and the Yukon government. It also differs from its fellow provinces by including language that allows for future discussions and contingencies. This is demonstrated in Paragraph 3, sections:

1. *"The Participants[1] will collaborate to resolve any issues arising from the administration of any provision in this MOU; and*
2. *"The Participants will hold further discussion as needed to improve labour mobility under this MOU."*

This is especially an improvement from previous MOUs as the lack of space to allow for future maintenance and cooperation was critiqued by scholars (Blank, 2011). Moreover, the language used with regard to collaboration and providing input by the Government of Yukon to the Philippines in its Pre-Departure Program further cements the cooperation between the two states on improving labour mobility.

[1] Referring to the Government of the Republic of the Philippines ("First Participant") and the Government of Yukon ("Second Participant")

Protection and Enforcement

Compared to the first three MOUs, Yukon does not have a section specifically on the protection of rights. Unlike Alberta, it is still mentioned but under Paragraph 4: Implementing bodies, section 4:

> *"Both entities will work within their respective jurisdictions**, to ensure** that the recruitment and employment of Filipino workers coming to Yukon under the YNP[2] complies with the relevant laws and regulations of their respective jurisdictions, including those regarding the protection of rights."*

While this policy is reminiscent of the other provinces' MOUs on the protection of rights by redirecting the protection of rights to the country and province's respective jurisdictions, the inclusion of the protection of rights as an afterthought to other labour laws and the lack of dedicated section by Yukon slightly reduces the significance of the protection of rights in these bilateral labour agreements. However, the Yukon government's usage of the word "ensure" in relation to the laws and regulations surrounding the protection of rights provides more accountability on the governments than the other MOUs.

The bilateral agreements between these provinces and the Philippines target the welfare and protection of migrant workers' rights in a more conclusive manner than other agreements the Philippines have with other receiving countries (Blank, 2011). However, the practice of these

[2] Referring to the Yukon Nominee Program.

policies may paint a different picture and demonstrate the actual lack of enforcement of these legislations.

Migrant Workers' Rights in Canada (Gendered Spaces)

In practice, the enforcement of the protection of workers' rights in Canada waver. Particularly, in the provinces that have MOUs with the Philippines, Filipino migrant workers still face barriers and challenges in accessing their rights. For example, Tungohan (2018)'s studies on Filipino workers in Canada found that labour abuses included the "non-payment of wages, long working hours, their employers' refusal to pay for overtime work and a racially segregated work environment" (p. 246). The Filipino respondents of her studies did not utilize any legal mechanisms to file complaints out of fear of retaliation (Tungohan, 2018). This was precipitated by the fact that aspects such as work permits, and the possibility of permanent residency nominations are tied to their employers through the Provincial Nominee Program (Tungohan, 2018). Employers essentially weaponized the potential to nominate one worker and would create an environment where workers felt obliged to be compliant and compete with one another (Tungohan, 2018). The acknowledgement of the challenges facing legal mechanisms to report violations of migrant workers' rights and the proximity of work permits and permanent residency nominations to employers are not directly mentioned in current MOUs.

Migrant workers also face bureaucratic obstacles when reporting and filing grievances against their employers. For example, as previously mentioned, Filipino migrant workers may not feel comfortable nor have the sufficient information to report a complaint against their

employers while in Canada. Workers who already returned home are unable to file a claim against their foreign employer. However, since recruitment agencies are liable in conjunction with foreign employers, workers can file claims related to fees and problematic employers against the recruitment agency that deployed them overseas (Rodriguez, 2010). Nonetheless, the process can be confusing for workers as it concerns two different agencies (the recruitment agency and the POEA) each with their own procedures (Rodriguez, 2010).

The lack of enforcement for the protection of migrant workers' rights was apparent within the Live-In Caregiver Program prior to 2014. The links between the employers, whose residences are the caregivers' workplace, and the workers' work permits can cause restrictive labour mobility (Macovei, 2012). Moreover, if a Filipino worker requests to change employers, they must obtain authorization from two government departments and are not compensated during the time it may take (Macovei, 2012). Furthermore, in provinces like British Columbia, live-in caregivers do not have the right to unionize as domestic work is not recognized as a workplace (Macovei, 2012).

As briefly mentioned in the analysis of MOUs, it is important to acknowledge and specify migrant worker categories in bilateral agreements to better accommodate workplace violations and abuses that are unique to that category. This can be seen with live-in caregivers whose workplaces are their employer's residences. The lack of enforcement of employer obligations by Canadian authorities is troubling as domestic work employers utilize their invisibility from the public and the privacy of their own homes to commit abuses such as withholding passports and wages, and physical and sexual violence (Brickner & Straehle, 2010).

Moreover, many workers are reluctant to call for help from the employer's phone as some employers have been known to "restrict the use of household items on penalty of dismissal or threaten the caregiver with deportation or harm to their families abroad" (Brickner & Straehle, 2010, p. 315). These common cases amongst caregivers in Canada demonstrate the outcomes from the lack of enforcement of the policies as outlined in the MOUs and other labour migrant policies. Considering these circumstances, specific migrant worker categories and outlining policies directed to the protection of their rights should be included in the bilateral agreements.

Future Policy Amendments and Recommendations

Recommendation #1: Create additional bilateral agreements with the other provinces and amendments

As of 2023, the Philippines only has bilateral agreements with four provinces and one territory in Canada.To ensure the guarantee of the protection of Filipino migrant workers' rights as required by the Migrant Workers Act, the Philippine government should establish bilateral agreements with the other provinces it sends workers to. Additionally, many of the existing bilateral agreements have not been amended since its inception, and more importantly, not since the amendments of the Migrant Workers Act in 2009. There are policy changes that participating governments should take into account when amending existing agreements or creating new ones for additional provinces and territories.

Future bilateral agreements and amendments to existing ones would benefit from following Yukon's steps in including cooperation and collaboration between the province and the Phillippines government in the future, as necessary. This leaves room for collaboration in the future should any issue arise pertaining to migrant workers' rights and welfare. It also demonstrates an openness to continue to improve labour mobility, seemingly putting the welfare and needs of migrant workers first.

According to the Migrant Workers Act, bilateral agreements are one of the essential components to the deployment of Filipino workers abroad. Based on the existing MOUs observed between the Philippines and the four provinces and Yukon, there are still elements of the Migrant Workers Act that are lacking in the MOUs. First, while there are mentions of the workers adhering to the Philippine Labour Code in Manitoba, Saskatchewan, and British Columbia's MOUs, the agreements refer to the original RA 8042 of the Migrant Workers Act. As these MOUs have not been amended since its inception, RA 10022 of the Migrant Workers Act is not referred to. As the most recent MOU, Yukon surprisingly does not directly refer to the Migrant Workers Act at all, neither under the name Labour Code or RA8042.

Recommendation #2: Provide clear directives on the enforcement of the protection of migrant workers' rights and acknowledge specific migrant worker categories

Sections related to the protection of workers' rights, if any, are brief in the current MOUs. Moreover, overemphasis on recruitment and deployment bury the policies on the protection of rights. Except for Saskatchewan, all of the MOUs between the other provinces and the Philippine

government simply redirect the protection of migrant workers' rights to existing laws and regulations under the provincial and federal rule. The lack of clear and concrete directives may cause bureaucratic blocks for migrant workers when filing a complaint. For example, the MOUs allude that complaints would be referred to the appropriate Canadian agencies, however the MOU does not specifically highlight where and how complaints to the appropriate Philippine agencies would function. Additionally, while it is justified and egalitarian to have policies that refer to Filipino migrant workers as enjoying the same labour rights as their Canadian counterparts, the reality shows that many of migrant workers' rights violations are specific to their status as a migrant worker. This is especially true for female workers in domestic categories such as caregiving. Having labour laws that pertain to the protection of migrant workers' rights specifically can address these discrepancies. Saskatchewan, British Columbia, and Manitoba's MOUs refer migrant workers' rights to the province and Canada's labour law - acknowledging the differential treatment between Filipino workers and their Canadian counterparts may reduce the anxieties surrounding reporting and will improve the government's legislative enforcement ability.

Moreover, a common sentiment that restricts migrant workers from reporting violation of rights and filing complaints per the MOUs is the fear of reparations by their employers. The provincial governments and the Philippines should clearly reinforce in future MOUs the existing mandate that employees shall not be reprimanded for filing a complaint. Currently, employers who do not adhere to the protection of rights of migrant workers and are found to be non-compliant by the Canadian government face varying consequences from a warning to significant fines to a permanent ban from the TFWP for serious violations (ESDC, 2023). It is

unclear whether, depending on the severity of the violation and abuses, the employers found non-compliant could be charged criminally. Moreover, a permanent ban on the TFWP could still mean that the employer continues to run their business outside of the program. Enforcement of these protections and consequences should be improved by the Canadian government conducting more TFWP workplace inspections. Currently, only 25% of TFWP workplaces are inspected in a year (Green & Spiegal, 2021). Increasing the percentage of inspections, which includes interviewing employees, to at least half will improve enforcement and monitoring of vulnerable workplaces and can ease the burden of reporting violations on migrant workers if inspectors find violations independently. As the MOUs' sections on the protection of human rights are brief, including details of these consequences and the appropriate enforcement agencies monitoring violations will only elevate and strengthen the agreements to further reflect the Migrant Workers Act, as its main objective is to ensure the protection of Filipino migrant workers' rights.

It should be acknowledged that there could be higher costs associated with this recommendation as introducing these enforcements would mean that frequent inspections of workplaces by the government would need to be implemented. However, these costs could theoretically be replenished as an increase in inspections could mean the potential increase in employers found non-compliant which would mean a potential increase in penalty fees they would have to pay. Additionally, easier access to educational materials on workers' rights and how to file a report against an abusive employer should be made available to all migrant workers upon arrival to Canada through workshops and in their mother tongue. While this could fall under the responsibility of the POEA, educational workshops presented by the provincial and Canadian governments - foreign entities to the migrant workers - could decrease the hesitation by

workers to report and reassure them of the illegality of retaliation of employers for reporting. While educating and reinforcing migrant workers' rights may reduce fears for reporting workplace abuses or rights violations, it does not prevent all hesitation as workers' work permits are tied to their specific workplace unless they apply for the Open Work Permit for Vulnerable Workers, which is another bureacratic process they would have to go through. Varying processing lengths and the requirement of a valid work permit are some of the barriers vulnerable migrant workers face when applying for this permit (Depatie-Pelletier, 2022).

Recommendation #3: Make the bilateral labour agreements legally binding

The status of these MOUs is non-legally binding, which restricts the legal mechanisms Filipino migrant workers and the Philippine government can adhere to when a violation of the bilateral agreements occurs. The Philippine government and the Canadian governments should amend these agreements, and all future agreements, to reflect a legally binding status to codify the protection and welfare of Filipino migrant workers' rights. This will ensure the guarantee of the protection of workers' rights in the eyes of international law, adding an additional layer of protection through legal and diplomatic repercussions on an international level for Canadian employers violating workers' rights. This would further strengthen Canada as an eligible labour destination country as outlined in the Migrant Workers Act.

Finally, one of the primary reasons as to why the Philippines pursues bilateral labour agreements regarding the guarantee of the protection of the welfare and rights of its overseas workers can be attributed to the fact that many labour receiving countries are not party to nor

signatory to the United Nations (UN) treaty, the International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families. As of 2023, no Western European or North American country has ratified the treaty. As a major migrant receiving country that promotes itself as a land that protects human rights and highly encourages migration, Canada must consider the ratification of this treaty to enhance and demonstrate its support on the protection of migrant workers' rights on the international stage. Bounded by international law and codifying its MOUs will be likely to improve migrant workers' trust and security in Canada and improve labour relations with the Philippines, one of the first countries to ratify the UN treaty on migrant workers.

Conclusion

The Philippines and Canada share a collaborative partnership when it comes to facilitating labour migration. This is largely due to the mutual benefits of labour migration in general as Canada encourages skilled Filipino workers to participate in the TFWP to fill in labour gaps, particularly in the gendered labour sector, while the Philippines encourages work overseas as a major economic strategy. This stems from mandating remittances amidst a debt crisis and to appease rising unemployment, particularly among the youth. Meanwhile, migrant workers are able to access more economic opportunities, support their families back home, and potentially gain permanent residency in Canada if they wish to stay.

Women from the Philippines have been at the center of their country's labour migration export policy with regard to the protection of migrant workers' rights. Widely controversial

incidents involving Filipina migrant workers, predominantly in the caregiving sector, led to the creation of the Migrant Workers and Overseas Act of 1995 (RA8042) and its amendment in 2009 (RA10022). The Act is the pinnacle of the Philippine's efforts in deploying workers to only destinations that guarantee the protection of migrant workers' rights. One of the options that destination countries can adhere to in order to meet this requirement is engaging in bilateral agreements with the Philippines. Four Canadian provinces and Yukon have created MOUs with the Philippines on labour migrant rights with varying measures on the protection and enforcement of rights and welfare. This paper has examined the MOUs to analyze how reflective of the RA8042 and its amendment RA10022 they are pertaining to the protection of workers' rights, particularly through a gendered lens.

It was found that while Saskatchewan, Manitoba, and British Columbia's MOUs refer workers' rights to their respective provincial and federal laws, Saskatchewan also includes a clearer enforcement plan of action in response to grievances. Meanwhile, Alberta does not provide a specific section for the protection of migrant workers' rights nor directs readers to Albertan and Canadian laws on the protection of labour rights. Therefore, their MOU does not directly address the protection nor the enforcement of migrant workers' rights. Finally, Yukon differs from the previous MOUs by including collaborative language to improve labour mobility with the Philippines in the future.

In practice, these policies demonstrate a lack of enforcement as migrant workers, particularly those in gendered labour such as caregiving, are subjected to rights violations and abuses. Bureaucratic obstacles and fear of reparations prevent workers from reporting incidents.

As such, all of the existing MOUs should specify migrant worker categories in future amendments to acknowledge the realities of vulnerabilities that are unique to their status as migrant workers and their workplace. This will especially support live-in caregivers whose restrictive residence can increase the risk for abuses by employers.

Additional bilateral agreements should be made between the Philippines and the other relevant Canadian provinces and territories to strengthen the protection of Filipino overseas workers' rights in Canada. Amendments to current MOUs should be made to include RA10022 and policies for collaboration and cooperation in the future. Lastly, existing and future bilateral labour agreements should be made legally-binding to codify migrant workers' rights and Canada should sign and ratify the international treaties protecting migrant workers' rights.

There are still limitations to my research and numerous aspects to consider going forward on the research of bilateral labour agreements between the Canadian provinces and the Philippines. The sections in most of the Canadian MOUs related to recruitment agencies, costs, and training were not thoroughly examined in this paper and could be explored more to paint a larger picture of migrant workers' rights in Canada. Additionally, the recommendations presented were in relation to bilateral labour agreements, however there are recommendations in other policy areas to be discussed in order to improve migrant workers' rights. An example would be relieving migrant workers' ties to employers vis a vis Permanent Residency nomination. Furthermore, research and data on complaints reported by Filipino workers in their respective provinces since the MOUs were implemented should be considered in order to provide a statistical approach on the success of the agreements.

Migrant workers are a vital resource to both Canada and the Philippines. The continued efforts made by both sending and receiving countries through bilateral agreements will only strengthen the international recognition and protection of migrant workers' rights by setting ethical and just precedents via legal mechanisms.

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