

# Philippine LABOR REVIEW

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### OVERSEAS RECRUITMENT PROCEDURES IN EAST ASIAN COUNTRIES

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- Manpower Requisition Procedures in Korea
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- Migrant Workers: a Brief Review of ILO Activities

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## ***Editorial Preface***

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Among the most significant developments in East Asia in the 70's was the export of manpower on a large scale. Workers from the region—the Philippines, Republic of Korea, Thailand, Singapore, Indonesia, Bangladesh and Hongkong—were recruited to work in construction projects in the oil-rich countries of the Middle East, in hospitals and hotels in Western Europe, aboard ocean-going vessels all over the world, and a variety of other jobs for which local labor was either scarce or unavailable.

The outflow of labor immensely contributed to employment and foreign exchange earnings which made some countries adopt special measures and programs to facilitate the recruitment of workers for overseas jobs. A number of countries have established specialized government agencies to undertake recruitment for foreign employers, while some have left this function in the hands of the private sector.

Most governments in the region felt responsible for the protection of their nationals from abuses and malpractices in the recruitment process. Various forms of controls were instituted by the labor administration authorities entrusted with the responsibility to develop policies and programs for overseas recruitment. Managing the overseas recruitment program has become one of the most challenging areas of work in labor administration for the achievement of national development objectives.

To provide opportunities for senior labor officials in the East Asian countries to discuss the various dimensions and implications of the temporary migration of workers, a symposium on overseas recruitment procedures was sponsored jointly by the Philippine government and ILO/ARPLA. The symposium, held in Manila on April 14 to 19, 1980, offered an occasion for reviewing the experience of the respective countries in the region. The participating countries exchanged information and ideas on how policies and programs may be more efficiently and effectively implemented. They devoted special attention to identifying recruitment methods which will expedite placement of workers, firm up procedures on contract formulation and enforcement, and minimize workers' exploitation by private recruiters.

We would like to share with our readers, in this issue of *Philippine Labor Review*, some of the papers presented to the symposium.

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# Toward a Just and Equitable Manpower Movement

by Blas F. Ople

You have come to Manila at the height of our dry season but I hope you will find the hearts of the Filipino people warmer even than their climate. Incidentally, I am getting so accustomed to addressing ARPLA seminars. We have just concluded an ARPLA seminar on labor administration and national development with participants from 17 Asian countries and now we have this symposium for overseas employment from seven East Asian countries.

I have been looking forward to a symposium of this kind. In fact I now recall that I proposed it to the ARPLA.

Five years ago, recognizing signs of continuing expansion in the labor export market, I suggested the holding of bilateral talks with Korea, then the acknowledged leader in the field of overseas employment. While this was approved in principle between the director-general of labor of Korea and myself during the ILO meeting in Geneva in 1977, the talks did not push through. However, the Overseas Employment Development Board followed this up and with the blessings of ILO-ARPLA, we are opening today what may well be the first serious assessment of the overseas employment program in our part of the world. We are grateful to ARPLA for its sponsorship of this symposium and we wish to welcome all the participating countries who have honored us with their participation. Let me say that overseas employment is a subject which is very important to us in the Philippines. It is, in fact, part of an integrated government strategy for expanding employment opportunities, building up skills and strengthening our balance of payments. But apart from our own national interest, we also see that the time has come for us to transcend our national frontiers and to put our collective will and experiences to bear on the many problems that are inherent or which may have been spawned by a program of manpower export. The fact is, four days ago, we convened a national symposium on overseas employment, the outputs of which we hope will serve as inputs to the discussions of the next few days.

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\*Speech delivered by Labor Minister Blas F. Ople during the opening ceremony of the ILO/ARPLA Symposium on Overseas Recruitment Procedures for Senior Officials in East Asian Countries, Manila, 14 April 1980.

## Manpower export: transfer of human capital

Manpower export is a phenomenon almost as old as man himself. Many of our countries — and the Philippines is a prime example — would not be the country that it is today were it not for the waves of migration from neighboring countries or continents. People have always been mobile and for a variety of reasons. There are those who move to allow themselves greater space in a bid for territorial advantage. Others migrate to avoid persecution. Still others escape from wars and their consequent dangers. Others transfer roots to seek better climes and more accommodating environments.

However, the mass movement of persons mainly for employment or allied economic reasons is of fairly recent origins. I think it might have begun in the early 18th century when mercantilism was in full flower in Europe. Mercantilism put a great premium in prosperity and population growth. Many of the leading countries of the era therefore saw it fit to allow the entry of skilled workers into their countries while prohibiting the entry of manufactured goods. This was viewed as a protectionist measure which made available cheap labor for processing the abundance of raw materials then available from many of the colonies. It did not take too long for this movement to develop into a tradition and the commercialization of a slave trade. The renascence in human values eventually put the pressure on this pernicious traffic in human lives and slavery waned under an age of rising liberalism. To this day, of course, slavery still masquerades in many forms. Just the same, the decline in mercantilism and the emergence of an age characterized by neo-liberalism brought down trade restrictions and facilitated mass movements between and among countries. The world wars brought immigration controls and protectionist barriers once more, presumably to shelter jobs and industries in the developed economies which were then threatened by depression. Since then, we've had oscillating movements where periods of restrictions alternate with liberalizations. On the whole, however, the movement of people across countries was comparatively easy. This is helped in part by the considerable improvements in travel technology which have served to reduce both travel time and travel cost. There are, of course, what economists call push and pull factors: the push factors being the labor surplus and the low wages in many developing countries and the pull factors being the higher wages and the perceived better opportunities in the developed and labor-deficient economies. Outside of these factors, the movement of peoples is, in fact, encouraged by many of our international conventions. One of the ILO's labor standards categorically states:

It shall be the general policy of members to develop and utilize all possibilities of employment and for this purpose to facilitate the international distribution of manpower and in particular the movement of manpower from countries which have a surplus to those which have a deficiency.

As I said, for many of us, manpower export is pursued as a specific strategy for balancing labor supply and demand in the medium term and to generate valuable foreign exchange in the short-run. Because many of us perceive this to be a favorable move in the light of our efforts to develop, because many of us see that this is an interim measure that will ease internal pressures particularly for jobs, I sometimes sense an almost apologetic note when we've to explain our manpower export programs. This is, of course, a traditional oriental outlook, one that recognize *utang na loob*, a debt of gratitude, for a favor done. From a strictly economic point of view, however, I think we should begin to realize that receiving countries profit as much as we do, if not more, from utilizing our excess manpower. Overseas employment must therefore be seen as a confluence of interest, the exchange of value for value rather than as a debtor-creditor relationship. Given this point of view, we may perhaps be a little more assertive in the matter of negotiating for better working terms and conditions.

Galbraith in fact argues the role of migration, particularly of skilled workers and professionals, as a dynamic force for development. He proposed that the role of migrants in the development of Germany, the USA, Canada, Singapore, Hongkong and Taiwan has been severely underestimated. Some research studies indicate that between 13-42 percent of capital stock in the United States in 1912 could be attributed to savings in child rearing and educational expenses resulting from immigration. Similar findings are indicated in the Federal Republic of Germany.

What does this mean?

Among others, I think this means that we have to view manpower export more as a transfer of human capital with advantages and disadvantages accruing both to exporting and importing countries.

If we earn foreign exchange and minimize our own employment problems, the receiving countries also save on the training costs and the associated cost of social services needed to bring a worker to his present state of expertise and utility.

For me, this also means that the advantages and disadvantages of migration must be equally shared by all the benefitting parties.



## **Toward an organization of labor exporting countries**

At this point, I feel that we may start considering the idea of an organization for labor exporting countries. I see such an organization fulfilling at least three immediate functions:

It should serve as a forum for articulating certain concerns relative to overseas employment programs. In 1977, Crown Prince Hassan Bin Tallal of Jordan proposed an international labor compensatory facility to be set up similar to the IBRD or the IMF. It will be funded primarily by labor importing countries and soft loans would be made available to labor exporting countries for financing social projects proportionate to the outflow of labor from their shores. While this proposal drew some attention at the time it was proposed, it has not since been seriously discussed at all. Whatever its merits might be I feel that proposals such as this can profit from a thorough discussion which a forum such an organization of labor exporting countries can provide.

I also see that an organization such as this can help facilitate mutual assistance arrangements, whenever necessary. I remember how workers of other nationalities sought the assistance of our own labor attaches in cases of imprisonment, death or some such similar circumstances. Where this mutual assistance scheme is institutionalized among labor exporting countries, we may even economize on costs even as we assure our workers of ample protection and official representation at all times.

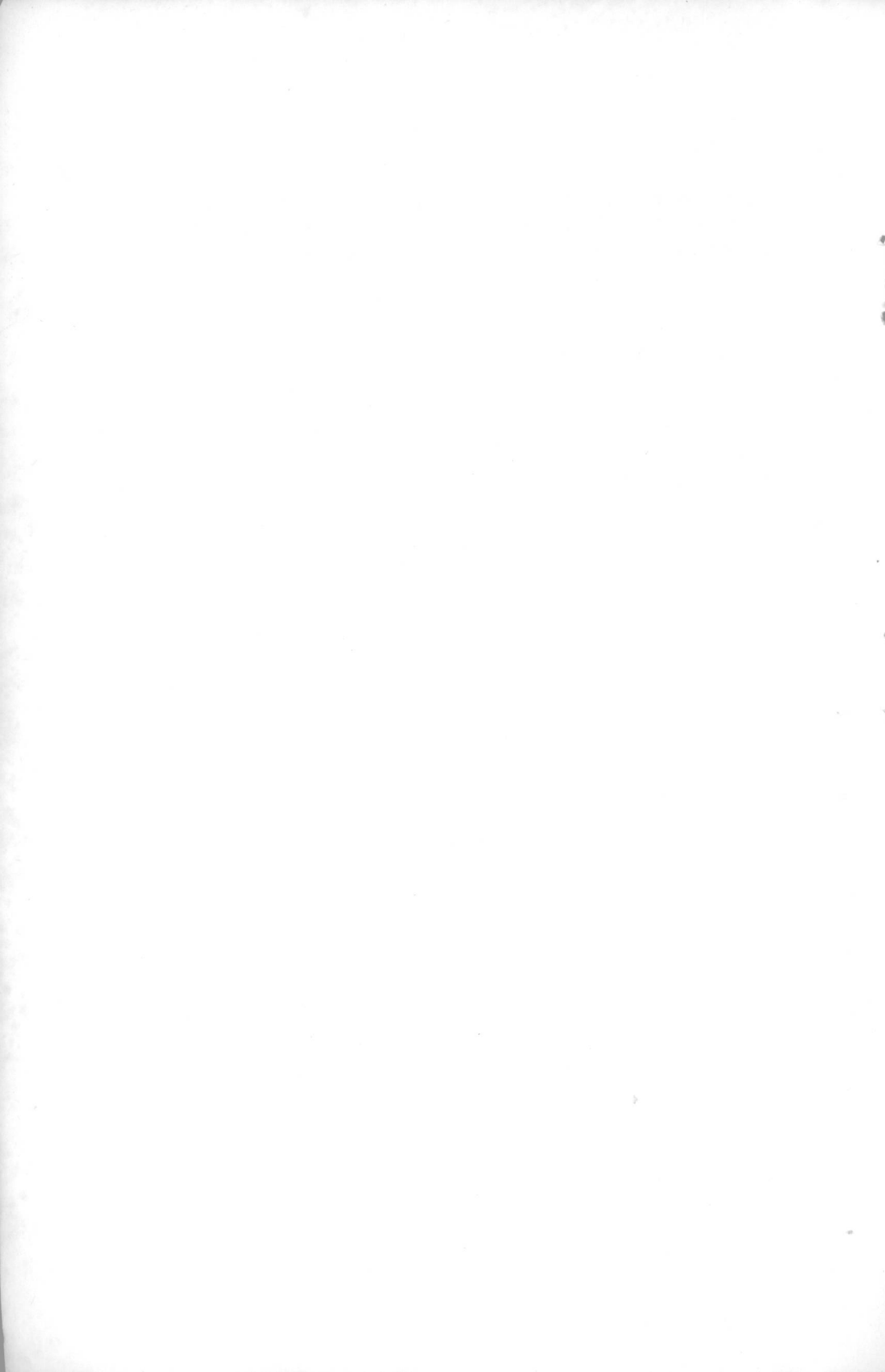
I also feel that we should start thinking of evolving common strategies for meeting issues like terms and conditions of work. Among ourselves, we should be able to set minimum standards that will prevent our being played one against the other. Only if we can assure our workers of overseas employment that is both just and equitable can we say that we are engaged in manpower movement, not slave trade.

I also see the organization of labor exporting countries as a useful medium for exchanging experiences relative to the overseas employment program. We are eager, for instance, to exchange information and experiences about illegal recruitment. I am sure that other countries have equally interesting experiences from which we may all learn and profit.

## Conclusion

The movement of man across countries is a historical tradition. The movement of manpower is of more recent origin. Since major imbalances may be expected to continue between developed and developing countries for the next ten to twenty years, much remains to be done to ensure that manpower movement becomes increasingly more systematized, more fair and more equitable for all parties concerned. If such movements can be the just and systematic flows that they should be, then there is much to hope for and be happy about because such movements may well prefigure the new international economic order that we are all dreaming about. I see this symposium as a first step in that direction. Let us hope that the giant leap will not be too far behind.





# Improvement Procedures in Recruitment, Placement and Enforcement of Labor Contracts Overseas\*

by Democrito Mendoza

The topic of this Conference, "Overseas Recruitment Procedures for Senior Officials", is definitely one of the most urgent and critical issues faced by many countries today.

I said "urgent" and "critical" because if one were to scan the pages of newspapers and news magazines of various frequencies and areas of circulation, he would, most likely, come across items the subject of which is the misfortune of some overseas workers who were made helpless victims of foreign exploitation.

The situation is made more painful due to the absence of some workable measures designed to prevent such occurrences.

I have made a claim before, and I would like to make the same claim now, that the ARPLA<sup>1</sup> is one project whose special relevance and importance to Asia cannot be doubted. Through the years, this project has successfully met the increasing challenges of the region.

I would go to the extent of saying that only a project with an orientation similar to ARPLA's can find meaningful solutions to Asian problems because the inherent peculiarities of the region can be fully interpreted and comprehended only by those coming from the region itself. This explains why the need for this project is acutely felt more than ever in Asia today.

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\*Speech delivered by Mr. Democrito T. Mendoza, President, Trade Union Congress of the Philippines, during the opening ceremony of the ILO/ARPLA Symposium on Overseas Recruitment Procedures for Senior Officials in East Asian Countries, Manila, 14 April 1980.

<sup>1</sup> Asian Regional Project for Strengthening Labor Administration. Founded following the Second Asian Labor Minister's Conference in New Delhi in 1969, the project is assisted by the ILO.

## **Timely conference**

We, definitely, are not surprised that the ARPLA has taken up as the subject of its conference the issue on improvement procedures in recruitment, placement and enforcement of labor contracts abroad. To our mind, ARPLA is the most qualified organization to meet the problem head on and effectively recommend solutions that can be accepted by the affected countries in the region. It is within this context that we view the special significance of the ARPLA in our time.

The timeliness of the conference also makes us very grateful to the ARPLA and to the ILO for initiating it.

I said this Conference is timely because the situation relative to procedures in recruitment, placement and labor contract enforcement overseas has already reached such a critical point that something has to be done now to solve it.

To sidetrack the problem will only multiply irritants in international relations and endanger peaceful co-existence.

## **Acute awareness**

We in the labor sector are very much aware of the sad plight of our brothers overseas, and, to some degree, we are getting impatient for there seems to be no international measures being implemented to make their lot a little bit better, particularly when they face a situation different from what was promised to them in their contracts.

We feel that if we are to live up to what are expected of us in the labor front, we must contribute our share in shaping up some measures to put an end to irritants in our international relations.

We are glad, therefore, that we are given a chance to be heard in this forum.

## **The case of the Philippines**

On matters relative to recruitment, something is now being done here in the Philippines. I must admit that we are more or less lucky because through the TUCP we are represented in the Overseas Employment Development Board (OEDB) and the National Seamen Board (NSB).

The Philippine government imposes heavy penalties on illegal recruiters. Unfortunately, the practice of recruiting workers for ghost jobs abroad goes on.

About two months ago, for example, a group of gullible workers landed in southern Philippines, in Cebu, instead of in a Middle East country as promised by their recruiters.

There are other internal problems relative to recruitment which have been felt lately. One is the time needed to process travel papers. Overseas contractors, for instance, called on various government agencies sometime last week "to cut down the processing time for travel clearances from seven to two days. It was also reported in one of the major dailies that an overseas contractor threatened "to recruit some 1,500 laborers if Philippine government authorities do not remedy the problems involved in travel documentation which . . . . requires about one month to 45 days."

It has also been suggested that Filipino contract workers must be exempted from the payment of travel tax.

It is obvious that whatever measures implemented internally to straighten out recruitment procedures only diminished the severity of a phase of the problem. The right way is to consider the problem in its totality and come up with a solution which will circumscribe all its myriad ramifications.

Until now, for instance, there are still Filipino workers waiting for their salaries which have been withheld abroad after the termination of their overseas employment. The Philippine government has stepped in to assist them but the problem has remained unsettled. This simply brings to the fore the complexity of the problem and the difficulty that may be encountered if there are applicable international instruments to be invoked.

It is this complexity which makes the problem very challenging. In our desire to bring the problem to a less irritating level, it is possible to establish a complete community of interests between the labor exporting countries and the host countries and consequently develop more meaningful solutions.

## Significance

I would like to emphasize that from our end we view this Conference as a major step to further progress, peace and cooperation among nations.

The quest for answers to big issues, answers which satisfy all parties concerned, is not an easy task. But with the proven wisdom and experience of the ARPLA, we are sure that the outcome of its search will be most fruitful and satisfying.



# The Philippine Overseas Employment Program<sup>\*</sup>

The movement of Filipinos into overseas jobs is a long-standing phenomenon. As a deliberate government policy and program, however, the promotion of overseas employment is of recent origin — more precisely 1974 — with the promulgation of Presidential Decree 442, better known as the Labor Code of the Philippines. The Labor Code speaks of the organization of systematic placement facilities for the orderly overseas movement of Filipino skills, in excess of domestic need. This code heralded greater government intervention in the market development and promotion, recruitment and placement of workers, a reaction to prior years' almost complete responsibility in the hands of the private sector. Further, the 1974 breakthrough indicated that government, specifically the Ministry of Labor, had grown increasingly cognizant of the social benefits pertinent to migration, namely, employment generation, skills enrichment and foreign exchange generation. Further, social disadvantages of overseas placement had become increasingly evident, among which were loss of high level skills vital to several industries and proliferation of exploitative recruitment practices. In this scenario the presence of government seemed imperative. The scope and extent of this presence, however, still remains highly controversial.

With the articulation of national state policy in 1974, several agencies were created, tasked to provide substance to the program. These agencies were the Overseas Employment Development Board, charged with systematically organizing the placement of Filipino land-based workers, the National Seamen Board, responsible for the seafarers, and the Bureau of Employment Services, responsible for the regulation of private fee-charging agencies.

These agencies are supported at the worksite by a labor attache corps which is functionally under the International Labor Affairs Service. Sixteen labor attaches are presently posted in different parts of the world to ensure enforcement of work contracts at the jobsite.

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<sup>\*</sup>Country paper presented to the ILO/ARPLA Symposium on Overseas Recruitment for Senior Officials in East Asian Countries, Manila, 14-19 April 1980.



In four years the program has sent 344,656 workers to overseas jobs spread over 104 countries. During the same period, foreign exchange remittances have reached \$1.2 billion.

### **Institutional framework**

While originally the Labor Code envisioned the centralization of all overseas employment functions in the government placement agency, after four years, government thinking has evolved with the notion that the capabilities of the private sector be tapped to contribute to this growing national effort. Further, job opportunities in the Middle East had accelerated so overwhelmingly that it was believed no single institution could cope with the burgeoning demand. From 19 licensees in 1978, the number of recruitment agencies and authority holders has risen to 75.

A rather dramatic shift in the national overseas employment strategy occurred in March 1977 with the promulgating of Policy Instructions 22 and 34 of the Ministry of Labor. These instructions called for the development of the so-called "corporate export strategy" marking a shift to promotion of Filipino entrepreneurship, management and employment, from promotion of individual manpower export. The first sector to enjoy privileges under this strategy was the construction industry. The Philippine Overseas Construction Board (POCB) was created in 1977 to provide financial and tax incentives to participating contractors. On the labor sector, the hiring of construction workers was directed through recognized/qualified construction companies. Since March 1977, 136 construction companies have registered with the Bureau of Employment Services. Only around 10 companies are, however, fully qualified to undertake project management contracts.

Government has taken the lead in setting standards for the overseas employment program. These include:

1. Upgrading of employment benefits for Filipino workers and institutionalization of the following terms in the contract of employment:

- a. Free passage to site of employment and return to point of hire including expenses for passport and other travel requirements.
- b. Guaranteed non-discriminatory wage prevailing at the site of employment.
- c. Free housing.
- d. Free food or compensatory allowance for workers in construction or similar projects outside principal cities at worksite.

- e. Free dental and medical services including medicines.
  - f. Free uniforms and laundry service for medical and hotel workers.
  - g. Coverage of workmen's compensation benefits for illnesses, injuries or deaths.
  - h. War hazard protection.
  - i. Baggage and settling-in allowances.
  - j. Free transportation of worker's remains and property to point of hire in case of death.
2. Implementation of a model employment contract\* for overseas workers which was later referred to or adopted by the private sector.
3. Establishment of high wage standards for Filipino workers which are based on non-discriminatory rates prevailing at worksite and estimated to be five or seven times the rates prevailing in the Philippines.
4. Implementation of the foreign exchange generation program of the government through the remittance of a portion of workers' salaries based on their affidavit of undertaking signed prior to departures for worksite.
5. Establishment of the following as part of the worker's travel documentation requirements and procedures:
- a. Pre-employment medical examination through accredited medical retainers using standard medical tests and fees.
  - b. Skills certifications and verifications.
  - c. Worker's pre-departure orientation covering basis information on country of destination, the employer, employment terms and conditions, code of behavior and obligations to country and family.
6. Life insurance coverage of all workers processed through the Board over and above the benefits given by the employer.
7. Formalization of bilateral recruitment agreements with foreign employers and governments as a way of providing official guarantee of workable employment terms and the protection of the employee and the employer to include:
- a. Payment of stand-by pay for workers waiting for long periods for departure.
  - b. Contract cancellation pay for workers whose appointments are cancelled prior to departure for worksite.

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\*The model employment contract and the procedures of the OEDB are catalogued in a hand-out brochure of the agency.

c. Workers' entitlement to automatic salary adjustment upon renewing contracts for another term.

d. Grievance procedure for settlement of dispute with the participation of the Philippine labor attache and/or the OEDB representative.

8. Initiation and establishment in 1977 of the Workers Welfare Fund for overseas workers.

9. Development of expertise in determining and evaluating wage of foreign employers for Filipino workers and establishment of an information resource base for terms and conditions of employment overseas.

10. Adoption of a "no fee" policy to workers applying and those hired for overseas employment.

11. Verification of hiring employer's credibility and good standing through the evaluation of employer's business license, reference checks and authenticity of entry visas for workers.

12. Establishment of complete recruitment and placement services and facilities which include pre-departure orientation for workers.

### **Problems, challenges**

The program has not been problem-free. Among the many concerns of the program are abusive employment practices, illegal recruitment, inadequate protection at worksite, and negative backward linkages to the national economy.

Major forms of control implemented by the government are licensing, standard setting, and criminal prosecution. The first two are exercised by the Ministry of Labor which by law has the power to set minimum standards for the terms and conditions of employment and to suspend or cancel licenses for recruitment.

### **Licensing**

Licensing as a control measure for exploitative recruitment practices is effective. With licensing, many recruitment agencies tend to shy away from illegal transactions for fear of having their licenses cancelled. Moreover, would-be recruiters without financial marketing and technical capabilities to recruit are easily eased out of the trade through licensing.

The effectivity of licensing, however, is restricted to those agencies with licenses. The government policy in licensing appeared weak as far as illegal recruitment agencies are concerned whose