

**No. 99**

**Securitizing/Desecuritizing the Filipinos'  
'Outward Migration Issue' in the Philippines'  
Relations with Other Asian Governments**

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**JANUARY 2006**

*With Compliments*

**Institute of Defence and Strategic  
Studies  
Singapore**

This Working Paper is part of a series of studies on Non-Traditional Security in Southeast Asia. It has been produced under a grant from the Ford Foundation, for which the Institute of Defence and Strategic gratefully acknowledges.



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## ABSTRACT

Today's outward migration of millions of Filipinos has rendered international borders porous and blurred the already thin-line between legal and illegal overseas workers, making both documented and undocumented migrants from the Philippines a responsibility of their government. Every case affecting Filipinos abroad, therefore, is a potential non-traditional security issue because, while migration poses no direct threat to the territorial security of sovereign states, it could threaten the survival of government if left unattended. It could make or unmake politicians, remove officials from public office, or, at worst, strain diplomatic relations between labor-sending and -receiving countries. It's also an economic issue that spills over to other related cases, such as human rights, sexual and reproductive health topics, national politics, and foreign affairs. The concept of securitization and desecuritization—as advanced by the Euro-centric Copenhagen School and adopted, with some modifications, by the Asia-centric Institute of Defence and Strategic Studies, in Singapore—is a powerful tool used by actors in identifying an existential threat to a referent object in migration cases, and in resolving the issue at hand.

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# **Securitizing/Desecuritizing the Filipinos' 'Outward Migration Issue' in the Philippines' Relations with Other Asian Governments**

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## **Introduction**

For some two decades now millions of overseas Filipino workers (OFWs) have been sending home billions of dollars to their families, keeping the country's ailing economy afloat and putting the Filipinos among the highest earning foreign workers. (Overseas Indian workers may be sending money to their families back home three times what the Filipinos are remitting, but with 13 times the population.)

There are now some eight million OFWs scattered around the world whose dollar remittances were seen to reach more than US\$7.6 billion in 2003, a five per cent increase from the 2002 figure of US\$7.2 billion, "and help offset the sluggish inflow of direct foreign investments".<sup>1</sup> But the figure represents only documented Filipino migrant workers; the number could run as high as one million more should it include undocumented OFWs, with a corresponding increase in remittances that could reach a total of some US\$10 billion, including the money hand-carried by traveling friends and homebound OFWs.

Today, close to 2,500 documented Filipinos alone leave the country every day to seek employment or emigrate elsewhere in the world. And almost half of them plan to permanently reside in a foreign country, even if they run the risk of becoming illegal aliens.

Official OFW deployment to Asian countries alone reached 287,260 workers in 2002 (excluding sea-based workers), an eight-per cent increase from the 2001 figure of 285,051. Based on statistical data done by the *Bangko Sentral ng Pilipinas* (BSP),<sup>2</sup> Asia is second to the Middle East as the largest destination for OFWs in terms of world grouping at 306,300 in 2002, a 2.9 per cent increase from 297,533 the previous year.

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<sup>1</sup> C. S. Batino, 'OFW remittances seen hitting \$7.6B,' *Philippine Daily Inquirer*, 23 August 2003, p. B1.

<sup>2</sup> Central Bank of the Philippines.

OFWs in Asia have been sending home more money, however, at \$8.5 million in January to September, 2002, a 6.6 per cent increase from \$7.95 million for the same period the previous year. During the first nine months in 2002, OFWs in the Middle East remitted \$5.3 million, which was the same amount they sent home for the same period in 200 (see Table 1).

Of the top 10 governments hosting OFWs, five are in Asia, namely Hong Kong, which lands second to Saudi Arabia, with 104,845 deployment in 2002 and 113,583 in 2001; Japan, on third-slot, 77,099 and 74,093; Taiwan, fifth, 46,172 and 38,311; Singapore, sixth, 27,627 and 26,305; and Brunei, 11,549 and 13,068 (see Table 2).

**Table 1 Statistical Data on OFWs**

WORLD GROUP	Deployment January to December			OFW Remittances As of September		
	2002	2001	% Change	2002	2001	% Change
Asia	287,260	285,051	0.8	847,672	795,314	6.6
Middle East	306,300	297,533	2.9	532,536	532,776	0.0
Europe	45,322	43,019	5.4	507,746	312,133	62.7
Americas	11,492	10,679	7.6	2,786,856	2,411,895	15.5
Trust Territories	6,070	6,823	-11.0	-	-	0.0
Africa	6,900	4,943	39.6	1,967	2,331	-15.6
Oceania	1,917	2,061	-7.0	26,219	16,958	54.6
Unspecified	10,820	11,530	-6.2	662,168	355,096	86.5
Total Land-based	676,081	661,639	2.2	4,458,050	3,626,935	22.9
Total Sea-based	209,593	204,951	2.3	907,114	799,568	13.5
<b>TOTAL</b>	<b>885,674</b>	<b>866,590</b>	<b>2.2</b>	<b>5,365,164</b>	<b>4,426,503</b>	<b>21.2</b>

Source: *Bangko Sentral ng Pilipinas*  
OFW Remittance in Thousand US\$



**Table 2 TOP 10 OFW DESTINATIONS**

	Deployment		
	January to December		
	2002	2001	% Change
1. Saudi Arabia	192,752	190,732	1.06
2. Hong Kong	104,845	113,583	-7.69
3. Japan	77,099	74,093	4.06
4. United Arab Emirates	50,684	44,631	13.56
5. Taiwan	46,172	38,311	20.52
6. Singapore	27,627	26,305	5.03
7. Kuwait	25,831	21,956	17.65
8. Italy	20,034	21,641	-7.43
9. United Kingdom	13,631	10,720	27.15
10. Brunei	11,549	13,068	-11.62

Source: *Bangko Sentral ng Pilipinas*

No wonder OFWs are being looked up to always as the savior of Philippine economy, even prompting President Gloria Macapagal-Arroyo (as announced by her spokesman, Ignacio Bunye) to say, during the recent fall of the peso against the US dollar due to a mutiny held by a group of rebel soldiers in Manila's central business district of Makati, that she would plead with them to remit money for their families at the soonest time possible.<sup>3</sup>

The Philippine government, mainly through the Department of Foreign Affairs (DFA) and the Department of Labor and Employment (DOLE), has several legal and monetary assistance programs being extended to OFWs, whether beleaguered or not. Government had realized that a Filipino migrant worker, whether documented or undocumented, is its responsibility. It's a truth that officials had learned slowly and painfully—both in local politics and through diplomatic dealings with their foreign counterparts. But not before the deaths of many migrant Filipinos, some of which had become celebrated cases that stirred the political and diplomatic cauldrons and, afterwards, prompted major shifts in the way government has formulated various local and foreign policies on Philippine migration.

This paper rationalizes the need for governments, particularly the Philippines, to take notice of labor or any other kind of outward migration as a non-traditional security (NTS) issue that spills over to other related cases, such as human rights, sexual and reproductive

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<sup>3</sup> M. T. Torres and A.S. Tenorio, 'Stop peso decline, GMA orders BSP,' *The Manila Times*, 28 August 2003, p. A1.

health issues, local politics, and foreign affairs. Then it points out various indicators of migration's securitization and desecuritization using significant and controversial issues as case studies.

It also draws up some likely methodologies—such as bilateral, trilateral or multilateral talks between labor-sending and -receiving countries, or government's coöperation between its agencies and with various non-government organizations (NGOs) and civil society groups—in identifying the implications of securitizing and desecuritizing outward migration.

The paper takes liberty in extensively using footnotes to clearly illustrate the connection between speech acts and securitizing/desecuritizing actors, by way of the speech act theory and the intentional strategy developed by analytic philosophers, from Austin to Searle and Dennett; but as modified by academic scholars, such as Bach, Harnish, and Smith; and made into the language of security by the Copenhagen School (CS) scholars, such as Buzan and Waever. The paper argues that speech acts and other indicators of securitization and desecuritization are but a manifestation of the actors' true intention, which is the basis of finding out whether the process has been successful.

Other details given through the extensive use of footnotes are those of controversial labor migration cases cited, with an end-view to making the paper accessible to a wider audience, including researchers and journalists, who are wont to look for a backgrounder on issues being tackled.

### **Securitizing Philippine Migration**

While the Philippines has been sending Filipino workers abroad since the 1970s (and vigorously since the 1980s), it had in the past failed to recognize labor migration cases as an NTS issue that needed immediate and drastic response. Non-traditional in the sense that while OFWs' mobility weakens migration barriers and renders international borders porous, it does not pose a direct threat to the country's sovereignty and those of host-governments'. It's unlike, say, territorial claims by sovereign nations over the alleged oil- and mineral-rich islands of Spratlys in the South China Sea that are directly linked to foreign policies or military behavior of claimant-nations.

And since security is about the “survival” of a “designated referent object,”<sup>4</sup> issues that are being securitized require, in conceptual terms, “emergency measures.”<sup>5</sup> In empirical terms, an issue is securitized when articulated by a securitizing actor (government, international organization, political elite, military, or civil society) as an existential threat to security.<sup>6</sup> The act of securitization is only successful once the securitizing actor succeeds in convincing a specific audience that a referent object is existentially threatened.<sup>7</sup> In these circumstances, standard political procedures are no longer viewed as adequate and extraordinary measures may be imposed to counter the threat.<sup>8</sup>

In the Philippines, where the economy relies on the billions of dollars of OFW remittances for its economy to survive, any issue concerning labor migration is a staple for the media and the Filipino people. It’s one of those issues that Filipinos love to describe as “*malapit sa bituka*” or “*malapit sa atay*,” meaning, “close to one’s innards” and, therefore, supports one’s very life.

And in a country where the media could swiftly make or unmake politicians due to its tremendous public clout and vigilance, and where the people had ousted two presidents in bloodless revolutions,<sup>9</sup> almost all sectors—politicians, public officials, businessmen and investors, students, NGOs, civil society groups, even organized religion, and other organizations—are quick to ride on any migration issues to advance their own ends.

As always, there are politicians and government officials wanting to have a makeover of their public image to woo more votes during a democratic exercise; investors and kingmakers who bankroll the candidacies of their anointed politicians in exchange for business concessions; NGOs desperately looking for an issue to get their hands on and

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<sup>4</sup> That usually includes, but not necessarily, the state, incorporating government, territory, and society. B.Buzan, O. Waever and J. de Wilde, *Security: A new framework for analysis*, Boulder, CO: Lynne Rienner, 1998, p. 21.

<sup>5</sup> Institute of Defence and Strategic Studies, *Analytical Framework: IDSS-Ford project on non-traditional security in Asia*, Singapore: IDSS, 2003, p. 1.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> The Filipinos’ peaceful revolution, known as People Power I, at EDSA (Epifanio de los Santos Ave.) in February, 1986 removed the dictator Ferdinand Marcos after two decades in power, and installed Corazon Aquino, the widow of the late opposition-senator Benigno Aquino Jr., as President. Then, in January, 2001, People Power II brought the downfall of President Joseph Estrada due to reports of graft and corruption.

give them an edge over rival organizations jockeying for the same foreign funding source; civil society groups lobbying so much for the passage into law of certain bills through political grandstanding; bored students and unproductive out-of-school youth and unemployed people looking for some diversion from routine, and in order to feel some sense of belonging; princes of organized religion who proclaim advocacy of the separation of powers between church and state but insist on having a say on political issues as shepherds of the flock; and the Filipino people who constantly check and balance on government, which in turn must show its citizens and the international community that it is in control of the country's socio-economic and political, and peace and order situations.

Controversial and celebrated cases either involving or affecting OFWs and other migrant Filipinos are security issues that must be framed beyond the normal realm of politics—in line with the Euro-centric Copenhagen School's<sup>10</sup> emphasis on the survival of a designated referent object—so that government could address them as emergency. This process is called “securitization,”<sup>11</sup> or the “move that takes politics beyond the established rules of the game and frames the issue either as a special kind of politics or as above politics,” and “can thus be seen as a more extreme version of politicization.”<sup>12</sup> Its reverse process, called “desecuritization,”<sup>13</sup> means shifting the issue back “into the normal bargaining processes of the political sphere.”<sup>14</sup>

The process of securitization is completed when securitizing actors use “speech act,” otherwise known as the language of security, to articulate that an issue needs emergency

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<sup>10</sup> Addressing European security concerns and questions, the Copenhagen School focuses mainly on "speech act" to explain how an issue is securitized. It is neither concerned "with assessing the effectiveness of securitization and desecuritization policy" nor "does it pay attention to the unintended consequences of these processes". The IDSS and the Ford Foundation wish to address these limitations by "wanting to develop concrete indicators of securitization and desecuritization as well as to identify mechanisms beyond the speech act, through a mix of theoretical and empirical discussions, and test them through a number of case studies". Their analytical framework wants to also "focus on how securitization and desecuritization actually work, theoretically and empirically, in the Asian regional setting". "Our research project will place a premium on assessing the extent to which policies of securitization and desecuritization have contributed to a more effective handling of non-traditional security issues." Refer to Institute of Defence and Strategic Studies, *Analytical Framework: IDSS-Ford project on non-traditional security in Asia*, p. 3.

<sup>11</sup> Ibid, p. 1.

<sup>12</sup> B.Buzan, O. Waever and J. de Wilde, *Security: A new framework for analysis*, p. 23.

<sup>13</sup> Institute of Defence and Strategic Studies, *Analytical Framework: IDSS-Ford project on non-traditional security in Asia*, p. 1.

<sup>14</sup> B.Buzan, O. Waever and J. de Wilde, *Security: A new framework for analysis*, p. 4.

measures as it poses an existential threat to the security of referent objects—individual or groups (refugees, victims of human rights abuses, etc.) and/or issue areas, including national sovereignty, environment, economy, among others.<sup>15</sup>

Something which the Philippine government failed to do in the Flor Contemplacion issue in Singapore<sup>16</sup> and the Maricris Sioson case in Japan,<sup>17</sup> did a bit late for the tens of thousands of Muslim-Filipino migrants in the Malaysian western state of Sabah,<sup>18</sup> but acted promptly for the beleaguered Filipino maids in Hong Kong.<sup>19</sup>

### *Referent Objects, Securitizing Actors, and Securitization*

Contemplacion, who came to typify an OFW who is decent and hardworking, was seen to have the necessary claim to survival since her threatened existence would ripple through the Filipino psyche. Millions of OFWs worldwide and their families and the general public back home would make her case as the benchmark in assessing how the Philippines and receiving-countries treat Filipino migrant workers.

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<sup>15</sup> Cited in Institute of Defence and Strategic Studies, *Analytical Framework: IDSS-Ford project on non-traditional security in Asia*, pp. 1-2.

<sup>16</sup> There was a political and diplomatic uproar when Singaporean authorities hanged Flor Contemplacion, a Filipino domestic helper, on March 17, 1995. She was accused of killing her best friend and provincemate, Delia Maga, also a Filipino maid, and Maga's ward, Nicholas Huang, on May 4, 1991, when Contemplacion visited Maga. The Singaporean High Court convicted Contemplacion, who had denied committing the crime, on January 31, 1993. See L. Lacson, 'Gancayco panel: It may not be Flor,' *The Philippine Star*, 6 March 1995, p. 1.

<sup>17</sup> Maricris Sioson went home in a box, her body bearing stab wounds and various other forms of physical abuse, despite the host-country's findings that she died from natural causes. After only five months in Japan working as a dancer, Sioson, 22, who left her native Philippines in April, 1991, died at Hanawa Welfare Hospital in Fukushima allegedly of hepatitis. Her remains were repatriated, and when her family opened her coffin, they found that she had been beaten and stabbed. (Details were culled from the paper-writer's personal notes and from documents provided by the Department of Foreign Affairs.)

<sup>18</sup> Manila found itself again in a crisis in 2002 following moves by Kuala Lumpur to forcibly send home to the southern Philippine island of Mindanao some 80,000 Muslim-Filipinos who had emigrated to the Malaysian western state of Sabah for years. Some 500,000 Filipinos had lived in Sabah before the repatriation, some of them allegedly refugees from the more than 30-year-old Muslim separatist rebellion in southern Philippines. See B.M. Dacanay, 'Special team to help Filipinos return home,' *Gulf News*, 3 September 2002. Available online at <<http://gulfnews.com/Articles/print.asp?ArticleID=62155>>.

<sup>19</sup> Hong Kong's Special Administrative Region (SAR) was set to impose a new levy of \$64 on a foreign maid's employer, a move that would cut the maid's monthly wage by \$51, from \$471 to \$406, effective April, 2003. See J. N. Franco Jr., 'Arroyo bars maids from going to Hong Kong,' *Gulf News*, 6 March 2003. Available online at <<http://www.gulfnews.com/Articles/print.asp?ArticleID=79641>>.

And it was Migrante<sup>20</sup>—as a securitizing actor—that first made the issue public, using speech act in identifying Contemplacion as the referent object in the securitization process. Then other militant groups started mobilizing the people, who took to the streets and protested against government’s lack of concern for the beleaguered OFW, or at least had her assisted by a counsel as early as during custodial interrogation. The street rallies became violent when Philippine diplomats and other government officials, whose first strategy was to keep the issue from the media, appeared standoffish when asked about the matter.

These vigilant moves done by securitizing actors—militant groups, politicians, the Philippine media, and the general public—were speech acts that created an existential threat to the ruling administration and on Manila’s diplomatic relations with Singapore. (A speech act is made when we typically use language in putting across a statement, as well as in making requests and appreciation, giving orders and thanks, and offering apologies and help, among others. Also, making a speech act means performing a number of acts—each according to the speaker’s intention—all at the same time.<sup>21</sup> These uses of language, according to Barry Smith, “not only can, but even do have the character of actions. . . .”<sup>22</sup>

It was already too late when Philippine President Fidel V. Ramos asked Singaporean Prime Minister Goh Chok Tong twice to delay Contemplacion's execution, a request that

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<sup>20</sup> Migrante, an international NGO working for the welfare of OFWs, went against government wishes to keep from the public information that Contemplacion was to be hanged in Singapore (M. Santiago, Migrante executive director, personal communication, July 22, 2003).

<sup>21</sup> K. Bach, ‘Speech acts,’ in *Routledge encyclopedia of philosophy*. Available online at <<http://online.sfsu.edu/~kbach/sphacts.html>> (accessed on 30 September 2003).

<sup>22</sup> And while it is partly taxonomic and partly explanatory, the theory of speech acts must be systematic in classifying its types and the ways it can either succeed or fail. Overall, making a speech is a way of communicating, and to communicate is to express a certain attitude, and the type of speech act being performed corresponds to the type of attitude being expressed. For example, a statement expresses a belief, a request expresses a desire, and an apology expresses regret. As an act of communication, a speech act succeeds if the audience identifies, in accordance with the speaker’s intention, the attitude being expressed (K. Bach, ‘Speech acts,’ p. 1). See also Austin's "How to Do Things with Words" (1962), which explicitly asserts that words *do*, rather than *represent*, things; and views all utterances as performatives--speech acts that are neither true nor false, but which bring about a particular social effect by being uttered. Here he distinguishes performatives from constatives, or utterances describing something outside the text and can therefore be judged as either true or false (see J.L. Austin, *How to do things with words*, Cambridge, MA: Harvard University, 1962). For his part, Searle justifies the speech act theory by saying that a "theory of language is a part of a theory of action, simply because speaking is a rule-governed form of behavior" (J. Searle, *Speech acts: An essay in the philosophy of language*, Cambridge, 1969, p. 17). He warns, however, that while being rule-governed means having formal features that admit of independent study, their role in speech acts must likewise be studied.

was turned down<sup>23</sup> twice also. Outraged Filipinos held angry rallies in front of the Singaporean embassy in Manila's business district of Makati for one month, putting pressure on both Manila and the Lion City which strained relations between these two neighbors and fellow-members of the Association of Southeast Asian Nations (ASEAN). In the southern Philippine city of Davao, angry Filipinos burned the Singaporean flag in protest over what they perceived as Singapore's insensitivity toward the issue and the Philippine government's failure to assist and defend Contemplacion.<sup>24</sup>

After putting up a fact-finding team that found Contemplacion innocent,<sup>25</sup> government had to augment security by deploying more police and military forces to contain the increasing violent incidents as people on the streets attacked the Singaporean embassy and its personnel.<sup>26</sup> The seven-member Gancayco Commission said Contemplacion was "innocent and a victim of injustice,"<sup>27</sup> and recommended the filing of charges against erring and negligent government officials but stressed that there was no need to sever ties with Singapore.

Ramos also ordered the fact-finding team to report on related issues, such as further consular and legislative measures for OFWs and possible bilateral agreements with each host-country, to uphold the welfare of Filipino migrants. Almost all the major government undertakings regarding OFWs after July, 1995 have been based on the findings of the Gancayco Commission, which actually made four reports.<sup>28</sup>

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<sup>23</sup> M. Manalo, 'RP, Singapore agree on 3 forensic experts for Maga,' *Manila Standard*, 1 June 1995.

<sup>24</sup> R. Nazareno, 'Flor's funeral turns into anti-gov't demo,' *Philippine Daily Inquirer*, 27 March 1995, p. 1.

<sup>25</sup> L. Jumilla and C. Cañares, 'Gancayco report: Flor was innocent,' *Philippine Daily Inquirer*, 7 April 1995, p. 1.

<sup>26</sup> R. Nazareno, 'Flor's funeral turns into anti-gov't demo.'

<sup>27</sup> L. Jumilla and C. Cañares, 'Gancayco report: Flor was innocent.'

<sup>28</sup> *First report*--The commission recommended that the Contemplacion-Maga issue be reopened, saying that the frail Contemplacion could not have killed Maga. It also found a sheer lack of concern the way government personnel had attended to Contemplacion, and her and Maga's families during those crucial times when they most needed assistance. *Second report*--It noticed the "feminization" of Philippine labor migration, saying that a sizeable number of women comprised a majority of the unskilled workers deployed abroad, and therefore more susceptible to abuse and exploitation. *Third report*--The Commission recommended the filing of administrative and other charges against public officials and agencies, and private individuals and companies responsible for anomalies involving OFW funds. *Fourth report*--It recommended the creation of more employment opportunities spelled out on a national plan, in order to retain local labor. It also called for the strict implementation of laws on the licensing operations of manpower recruitment agency and the improvement of pre-deployment documentation.

As expected, Singapore slammed the Gancayco report, prompting Ramos to kick out Singaporean Ambassador to Manila Tang Seng Chye, a move that further strained relations between the two countries.<sup>29</sup>

*Political survival.*

Then Ramos made his major political action when he ousted Foreign Secretary Roberto Romulo and Labor Secretary Nieves Confesor a week apart and weeks before the May, 1995 senatorial and local elections, a political move seen to pacify the angry populace and woo a substantial number of votes for the administration candidates.

In an interview, Confesor, who is now dean of the prestigious Asian Institute of Management (AIM) in Makati, said it was for the political survival of the ruling administration that she was asked to resign.<sup>30</sup> “People were crying for blood, and moments like those you just couldn’t discuss things in a sober manner. There was an election coming in a few weeks.” And since the move was highly political, Confesor was a bit spunky when she bade goodbye to the President, saying: “You’re gonna miss me!”

In June, 1995, three months after the hanging of Contemplacion, Manila and the Lion City had begun working to normalize their relations.<sup>31</sup> The then newly-installed Philippine Foreign Secretary Domingo Siazon Jr. said both parties “had agreed” that if the final autopsy on Maga (done by a third-country for the main purpose of impartiality) favored the Philippine side, then Singapore would reinvestigate the issue. But if it upheld Singapore, then Manila “would initiate moves to normalize ties between them.”<sup>32</sup> “He also raised the third possibility that the limitations of science might reach inconclusive findings, which would then make both parties set aside the issue and begin to normalize

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<sup>29</sup> B. Cruz, ‘FVR gets tough on Singapore,’ *The Manila Times*, 23 March 1995, p. 1.

<sup>30</sup> Personal communication on 21 August 2003.

<sup>31</sup> This came after Ramos dismissed two top Cabinet officials, recalled Manila's ambassador to the Lion City, downgraded the Philippine embassy personnel in Singapore, and kicked out the Singaporean ambassador to Manila. Singapore also had downgraded its embassy personnel in Manila. See B. Cruz, ‘FVR gets tough on Singapore.’

<sup>32</sup> M. Manalo, ‘RP, Singapore agree on 3 forensic experts for Maga.’



relations.<sup>33</sup>

Contemplacion did not die in vain, however, as her case served as a wake-up call to government on the issue of OFWs. She was able to put across an important message—that both labor-sending and –receiving governments ought to do more for migrant workers. Philippine migration has never been the same since. It has prompted government to initiate major changes in handling cases affecting OFWs.

In the case of Sioson, the securitizing actors were composed of her family and their supporters, militant groups, and the media. Government had failed to securitize the issue, since it didn't yet have the necessary guidelines on how to react to such a situation. The

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<sup>33</sup> Ibid. Statements (like what Siazon had uttered), requests, promises and apologies form part of the four major categories of communicative illocutionary acts—namely, constatives (affirming, alleging, announcing, attributing), directives (advising, asking, dismissing), commissives (agreeing, inviting, offering), and acknowledgments (apologizing, greeting, thanking) (Bach, p. 3). These nomenclatures came from Bach and Harnish, who borrowed the terms "constative" and "commissive" from Austin, and "directive" from Searle. They adopted the term "acknowledgment," however, over Austin's "behabitive" and Searle's "expressive" for apologies, greetings and congratulations, among others (p. 4). Siazon's statements (as intended) were successful in terms of the art of communication, as Philippine-Singaporean relations were back to normal only a few months after he uttered those words. His action can be described as being similar to speech acts having ambiguous words or phrases that must be fixed, in order for the audience to fully understand the content of what is being said. This also means that the "content of a locutionary act (what is said) is not always determined by what is meant by the sentence being uttered" (p. 3). Siazon, for instance, really had meant to say only the third possibility that if the autopsy would give inconclusive findings for either of the two parties, Manila and the Lion City would set aside irritants and move on. And yet his statement on the third possible scenario was riddled with diplomatese that only seasoned journalists could dissect and make it palatable to ordinary readers. The third scenario actually was not an option, but *the* only way out of the problem. The two other scenarios were also not options, since neither of the two sides would acknowledge another's findings on the Contemplacion-Maga Issue. Siazon made it come out as if there were three options, however, and uttered ambiguous words in a truly diplomatic fashion, since he had predicted (by adopting the intentional stance) that the Filipino people would become restive once more should they sense that Manila was making shortcuts in maneuvering its way out of a tight and delicate situation. (In his essay, "True Believers: The Intentional Strategy and Why It Works," Daniel Dennett says the intentional strategy, which means adopting the intentional stance [predicting an object's behavior as a rational agent by figuring out its beliefs and desires, and what this intentional system will do to further its goals in the light of its beliefs], is taken when the two other strategies--the physical [predicting the behavior of a system by determining its physical constitution, and applying the laws of nature and science] and the design [predicting that an object will behave as it is designed to behave in a given circumstance]--fail in predicting the behavior of an intentional system [1987, chap. 2]. The latter can be any objects [such as plants, animals, artifacts, kidneys and hearts, stamens and pistils] and human beings whose behavior can be predicted using either the physical, the design, or the intentional strategies, or their combination [chap. 2].) Communication becomes successful when the speaker puts his message across in such a way that his audience, "under the circumstances of utterance, [will] recognize his communicative intention" (Bach, p. 3). "Speech acts, being perlocutionary as well as illocutionary, generally have some ulterior purpose, but they are distinguished primarily by their illocutionary type, such as asserting, requesting, promising and apologizing, which in turn are distinguished by the type of attitude expressed." (p. 3). In other words, a speaker can, "directly or indirectly," perform a speech act using another speech act; "literally or non-literally," depending on how he utters certain words; and "explicitly or implicitly," depending on whether he fully says what he means (p. 3). An utterance of certain words, therefore, means performing a speech act (an illocutionary act, in particular) that has a certain communicative intention (p. 2). If it succeeds, the intention for its performance is fulfilled and the audience recognizes that intention (p. 2).

media and some concerned citizens had lashed out at government for its failure to protect Sioson, or at least appeal her case before the Japanese government. Manila failed to make representations with Tokyo before Sioson's case blew out of proportion. (The case was internationally symbolic of the vulnerability of women migrant workers.) Tokyo refused to cooperate with the mission sent by Manila (a move that was too late) to look into the matter and possibly ask for the reopening of the case.<sup>34</sup> The Japanese government also denied Sioson's family full access to medical records and police documents.

Although she was documented, Sioson was thought of as having misrepresented herself as an entertainer (she was neither a cultural dancer nor a bona fide performing artist) in order that she could work as a prostitute in Japan. But it was her tragic case that gave the first human face to unskilled or unqualified Filipino migrant workers. Sioson's story had made a stir,<sup>35</sup> though not as controversial as *Contemplacion's*, because Filipinos looked at her as a bargirl, and therefore couldn't be the epitome of a woman OFW who is perceived as someone decent and hardworking. But still, hers was the first OFW case that the major dailies had bannered and the tabloids presented in graphic details.

As for the Sabah repatriates, it was the Muslim-Filipino migrants themselves who came up with the speech act in securitizing their own plight, when they asked the help of some journalists to put across their message to government and the general public. Reports of maltreatment and rape of female migrants by the Malaysian police and the deaths of a number of babies and elders due to malnutrition and inhumane living conditions in detention centers had further muddled the issue.<sup>36</sup>

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<sup>34</sup> This developed as Dr. Flores Arizala of the Philippines National Bureau of Investigation (NBI) conducted an autopsy, which pointed out the cause of death as traumatic head injuries. He said there was a subdural hemorrhage in the cerebral cortex, presumably caused by blows to the head, and two stab wounds to Sioson's thigh and genital area. Dr. Fred Jordan, chief medical examiner of Oklahoma in the United States, who reviewed the autopsy report and other available medical records at the request of concerned groups, confirmed the NBI's report and said Sioson's death should have been classified as homicide.

<sup>35</sup> The Philippine government's decision to create the Artist's Record Book (ARB) stemmed from Sioson's case, saying this would assure that only bona fide performing artists could leave for overseas work. Issued by the Technical Education and Skills Development Authority (TESDA), a DOLE-attached agency, an ARB is to the Filipino entertainer what a Seaman's Book is to the seafarer. Containing all the necessary personal information of the bearer, an ARB is issued to an entertainer after s/he has passed all the requirements and pre-departure auditions imposed by government.

<sup>36</sup> B.M. Dacanay, 'Special team to help Filipinos return home.'

The Philippines and Malaysia handled the securitization process well, treating the issue beyond ordinary politics with a flurry of diplomatic protests and damage-control mechanism; but not until after reports of rape cases and preventable deaths in detention centers. The issue had seriously threatened Philippine-Malaysian relations, with Kuala Lumpur urging Manila to establish a consulate in Sabah to keep tabs of the number of Filipinos or help in their documentation. Manila rejected the move, inasmuch as it has a standing claim over Sabah, and was in fact urged by Muslim-Filipinos to vigorously pursue such a territorial demand.<sup>37</sup>

Wanting to arrest the growing unrest among senators, congressmen, the media, and civil society due to said event, Arroyo sent an eight-man team to Malaysia to look into the real condition of Filipinos confined at various detention centers in Sabah. She made the request after convening an emergency Cabinet meeting that discussed the various complaints lodged by Filipino deportees.

The team went to Kuala Lumpur and Sabah after Malaysian Prime Minister Mahathir Mohammad granted Arroyo's request to temporarily halt the forced repatriation, so that Philippine authorities could well assess the issue, ensure the humane treatment of detained Filipinos, and simplify deportation procedures. The team also made representations with Malaysian authorities to allow them to establish temporary processing centers there to carry out consular services for the Filipino deportees.<sup>38</sup> Kuala Lumpur granted all the requests, with Mahathir even assuring Arroyo that complaints of rape, harassment and maltreatment against the Malaysian police would be investigated.

After this assurance, Philippine officials and the media noted improved living conditions in detention centers and better treatment of Filipino deportees by Malaysian policemen. The temporary halt in repatriation also had allowed the Philippine Navy to put in place

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<sup>37</sup> Manila's territorial claim over Sabah has been put on the back burner for sometime, in order that the Philippines and Malaysia can work for various consensus-building measures within the ASEAN, of which they are both members. The Arroyo administration also has been trying to negotiate a peace agreement with the Moro Islamic Liberation Front (MILF), a Muslim secessionist group in Mindanao, to end the armed conflict in southern Philippines and prevent civilians from fleeing their homes and emigrating to nearby Sabah.

<sup>38</sup> The deportees' return to Mindanao had caused problems to national government and local officials, who noted an increase in crime rates in areas in southern Philippines where they ended up.

the necessary logistics in fetching the Filipino deportees from Sabah and bringing them home to southern Philippines.

The Philippine government exhibited a response (though not-so-quick) mechanism with regard to the Sabah repatriates. It must, however, come up with a final report on the assessment of projects that it said it had fast-tracked to achieve a 100-per cent accomplishment by end-2002.<sup>39</sup>

Manila had promptly securitized the case involving its migrant workers in Hong Kong, however, when Arroyo imposed during the early months of 2003 a ban on the deployment of maids to that former British colony.<sup>40</sup> She said this was "in protest over" what she described as Hong Kong's "unfair and unjust"<sup>41</sup> move to reduce the wages of its 200,000 foreign domestic helpers, 150,000 of whom are Filipinos.

This developed as the Filipino maids in Hong Kong took to the streets and asserted their rights to peaceably assemble in protest over SAR's decision.<sup>42</sup> Later on, fellow maids from other labor-sending countries, such as Indonesia, Thailand, India, and Sri Lanka joined the Filipinos, prompting governments of countries concerned to exert more pressure on Hong Kong by making official representations in behalf of their migrant workers.<sup>43</sup>

Then Hong Kong announced on August 29, 2003 that employers wishing to hire, or renew a contract with, a foreign maid should start paying a monthly levy of \$51 starting October 1. Whereas it had announced that the funds to be generated from this levy would

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<sup>39</sup> Government had been initiating different intervention plans--training, livelihood and employment--for the Sabah repatriates in Zamboanga City and the provinces of Basilan, Tawi-Tawi and Sulu, all in southern Philippines. In a report prepared by the Special Employment Assistance Center (SEAC), under the collaboration of DOLE and TESDA, government said it assisted in the processing centers 22,775 Sabah repatriates, as of November 15, 2002. Of this number, 14,377 were aged 18 to 59 while 7,946 were below 18 years old, and 452 were 60 and over.

<sup>40</sup> J. N. Franco Jr., 'Arroyo bars maids from going to Hong Kong.'

<sup>41</sup> While this speech act may be considered successful at the illocutionary level, it is still a condition on the success of perlocutionary act--whether an audience believes what a speaker states, requests, or suggests (see K. Bach, 'Speech acts,' p. 2). Since Arroyo's speech act became effective, however, meant that she was likewise successful in taking the intentional stance--predicting correctly the behavior of Hong Kong officials, the Filipino maids and their countrymen--before uttering those terse words against an impending decrease in the wages of foreign maids in Hong Kong.

<sup>42</sup> See Footnote 19.

<sup>43</sup> J. N. Franco Jr., 'Arroyo bars maids from going to Hong Kong.'

be used to offset its huge budget deficit, Hong Kong was now saying that the money would be spent to train local residents in order to make them competitive with foreign workers.<sup>44</sup>

At the end of the day Manila failed to stop Hong Kong from imposing the planned levy. What mattered, however, was that the Philippine government managed to somehow iron things out and give the Filipino maids some sort of a breather for six months. It also mattered to OFWs, and the Filipinos in general, that government acted swiftly, and did not wait for the issue to get out of hand.

*More securitization indicators.*

Confesor said the Philippine migration situation had worsened when Congress passed a law—the Migrant Workers and Overseas Filipinos Act of 1995, otherwise known as Republic Act, or RA, 8042—that was crafted mainly to protect OFWs. But Confesor said “it was a law that was not well-thought-out.”

Sharing Confesor’s view, Petronila Garcia, executive director of DFA’s Office of the Undersecretary for Migrant Workers Affairs (OUMWA), said the law is wrought with loopholes<sup>45</sup> as it was done in haste—on June 7, 1995, only three months after the hanging of Contemplacion.<sup>46</sup> But she said it is the best example of a direct reaction by the country’s lawmakers to the Contemplacion issue.

José Brillantes, Foreign Undersecretary for Migrant Workers and Legal Affairs, and OUMWA chief, agreed that there is a need to amend RA 8042, saying it had been “hatched too much in a hurry, and there may be situations affecting OFWs that were not

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<sup>44</sup> AFP, ‘HK starts collecting levy on maids Oct. 1,’ *Philippine Daily Inquirer*, 30 August 2003.

<sup>45</sup> Foremost among these loopholes is Article VII, Sections 29 and 30, which calls for the deregulation of recruitment and the gradual phase-out of the Philippine Overseas Employment Administration (POEA), respectively (Philippine Overseas Employment Administration-Department of Labor and Employment, 1997). Garcia said this means that government was supposed to have formulated already as early as 1995 a five-year comprehensive deregulation plan on recruitment activities, and done away with the POEA (which processes contracts between Filipino workers and their foreign employers) in 2000.

<sup>46</sup> Personal communication on 14 August 2003.

covered or can be improved.”<sup>47</sup> He said an inter-agency team had drawn up a number of proposed amendments to RA 8042, a move which also had considered the various comments and recommendations<sup>48</sup> submitted by a number of NGOs and recruitment agencies.

Brillantes said his office, a position created under the DFA in 1996, as provided for by RA 8042, is tasked to protect and promote the rights, interest, and welfare of migrant Filipino workers, their families, and other overseas Filipinos in distress; and to work closely with foreign posts, other government agencies, NGOs, and other sectors to provide adequate and timely assistance to Filipinos abroad. His office welcomes walk-in requests for OFW assistance, referrals from Philippine posts in host-countries, phone-in referrals, and requests for assistance from government agencies, NGOs, and employers. The services it renders include legal support for beleaguered OFWs, and assistance to migrant workers and other OFWs in cases such as detention, unpaid salaries, financial support for next-of-kin, and whereabouts of missing relatives. Other services offered:

- Processes claims and benefits such as death benefits and money claims, and shipment of personal effects of deceased OFWs

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<sup>47</sup> Personal communication on 22 August 2003.

<sup>48</sup> Among these, Brillantes said, are the need for government to have psycho-social services available to returning OFWs, and a vigorous information campaign on matters involving labor migration, as recommended by the Department of Social Welfare and Development (DSWD). Commenting on the need for government to formulate proactive policies to protect migrant workers, as provided for in Sections 2 (C), 17 and 18 of RA 8042, the DSWD pushed for the re-entry program for families, especially those with children below seven years old. In a document provided by Brillantes, the DSWD said: "Rejection on the part of the children is common, and the family especially the mother, being the OFW, encounters difficulties to win back the child, and the father is torn in adjusting and balancing the situation to maintain equilibrium in the home." To complement RA 8042's Sec. 19 (which provides for the establishment of OFWs and other Filipino migrants centers at Philippine posts worldwide, especially in host-countries where there are many Filipinos), the NBI batted for the importance of legal attachés in Philippine posts abroad, especially in problematic areas that have big numbers of OFWs. A legal attaché must either be an NBI assistant regional director or head agent, since this lawyer is trained in the art of investigation of criminal cases. "In the police level, the investigation of the case is very crucial considering that it is during this phase of the investigation that pieces of evidence are gathered which could either free an OFW or put him behind bars." For its part, the Bureau of Immigration (BI) wanted RA 8042 to categorically allow its office to apply immigration policies to OFWs. "This will insulate the bureau from unfair allegations that its mandate is exclusively confined to aliens as well as enable it to effectively respond to the global concern against illegal transmigration of local workers." The Kapisanan ng mga Kamag-anak ng Migranteng Manggagawang Pilipino Inc. (Association of Filipino Migrant Workers' Relatives Inc.), or KAKAMPI, an NGO, and five associations of recruiting agencies called for a strengthened partnership between government organizations (GOs) and NGOs in the protection of OFWs, the effective implementation of laws against illegal recruiters, and Manila's forging of bilateral agreements with host-governments that would advance the cause of OFWs.

- Assists in the shipment of the remains, and does airport arrangements in coordination with the Overseas Workers' Welfare Administration (OWWA)
- Repatriates undocumented or overstaying migrant Filipinos, including those covered by amnesty and regularization programs, and deportees
- Pursues the negotiation of bilateral, regional and multilateral agreements to provide protection for OFWs

Brillantes said OUMWA handled 17,571 legal and consular cases in 2001, 25 per cent of which or 4,414 cases involved repatriation and maltreatment, as compared to only 13,332 total cases in 1999 (see Table 3 below). As of 2001, Brillantes said, there were 2,431 reported OFW detainees (see Table 4) while there was a decreasing trend, from 1998 to 2001, in the number of those who died in their host-countries (see Table 5).

**Table 3            Legal and Consular Cases Handled, By Type of Cases, 1999-2001**

	1999	2000	2001
Repatriation / Maltreatment	1,890 (14%)	4,583 (34%)	4,414 (25%)
Detention	3,528 (26%)	2,139 (16%)	3,317 (19%)
Whereabouts / Money support	1,413 (11%)	1,507 (11%)	3,387 (19%)
Benefits / Money claims	954 (7%)	1,335 (10%)	1,780 (10%)
Others <sup>a</sup>	5,547 (42%)	3,777 (28%)	4,673 (27%)
<b>TOTAL</b>	<b>13,332</b>	<b>13,341</b>	<b>17,571</b>

*Source: Department of Foreign Affairs*

**Table 4            Reported Overseas Filipino Detainees, By Gender, as of December, 2001**

Male	917
Female	703
Gender not identified	811
<b>TOTAL</b>	<b>2,431</b>

*Source: Department of Foreign Affairs*

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<sup>a</sup> Includes passports/visa referral, authentication, counseling.

**Table 5**      **Reported Overseas Filipinos Who Died, By Gender, 1998-2001**

	1998	1999	2000	2001
Male	499	466	440	425
Female	191	142	173	170
<b>TOTAL</b>	<b>690</b>	<b>608</b>	<b>613</b>	<b>595</b>

*Source: Department of Foreign Affairs*

He added that OUMWA carried out fund disbursements for assistance-to-nationals (ATN) amounting to 20.2 million pesos in 2001, a slight decrease compared to P23.41 million in 1999 (see Table 6 below). Legal assistance fund disbursements, on the other hand, amounted to P11.72 million in 2001, a more than 300 per cent increase from the 1999 figure of P3.35 million (see Table 7). Since its creation in 1996 to end-2002, OUMWA disbursed at least P32 million for legal assistance to 2,288 OFWs (see Table 8).

**Table 6**      **Assistance-to-Nationals (ATN) Fund Disbursements, in Million Pesos,<sup>b</sup> By Region, 1999-2001**

	1999	2000	2001
Americas	1.41	.92	.99
Asia and Pacific	7.91	4.26	9.15
Europe	2.24	1.14	.80
Middle East & Africa	11.85	8.72	9.26
<b>TOTAL</b>	<b>23.41</b>	<b>15.34</b>	<b>20.20</b>

*Source: Department of Foreign Affairs*

**Table 7**      **Legal Assistance Fund (LAF) Disbursements in Million Pesos,<sup>b</sup> By Region, 1999-2001**

	1999	2000	2001
Americas	.02	.20	.22
Asia and Pacific	1.58	.04	1.28
Europe	.10	.19	.19
Middle East & Africa	1.65	.78	10.03
<b>TOTAL</b>	<b>3.35</b>	<b>1.21</b>	<b>11.72</b>

*Source: Department of Foreign Affairs*

<sup>b</sup> Rounded off to the nearest ten thousand.

<sup>b</sup> Rounded off to the nearest ten thousand.



**Table 8      Legal Assistance Fund Sources and Disbursements**

YEAR	FUND	DISBURSEMENT	BALANCE	BENEFICIARIES
1996	10,000,000* <u>17,230,761</u> ** 27,230,761	377,874	26,852,887	24
1997	30,000,000*** <u>26,852,887</u> **** 56,852,887	4,832,329	52,020,558	106
1998	25,167,671	4,432,170	20,735,501	50
1999	17,231,146	3,352,580	13,878,566	42
2000	15,000,000 <sup>i</sup>	1,211,395	13,788,605	79
2001	30,000,000***** <u>15,000,000</u> <sup>ii</sup> 45,000,000	11,724,329	33,275,671	1,807
2002	15,000,000 <sup>iii</sup>	6,367,287	8,632,713	180
				<b>2,288</b>

\* First-release from President Contingency Fund.

\*\* OWWA Contribution.

\*\*\* Second-release from President Contingency Fund.

\*\*\*\* Part of contingency fund.

<sup>i</sup> From DFA 2000 budget.

\*\*\*\*\* Share from the President's Social Fund per Section 25 of RA 8042.

<sup>ii</sup> From DFA 2001 budget.

<sup>iii</sup> From DFA 2002 budget.

*Source: Department of Foreign Affairs*

Brillantes said any cases affecting OFWs do not only put government and host-countries on the spotlight, but also the lucrative business of illegal recruitment. While Philippine diplomats and labor attachés have their hands full of consular issues, local officials and the police have to contend with unscrupulous individuals bent on victimizing fellow-Filipinos desperate for jobs abroad.

The POEA's<sup>49</sup> Anti-Illegal Recruitment Branch (AIRB) is in charge of surveillance, investigation and apprehension of suspected illegal recruiters, and the endorsement of their cases to various prosecution offices for preliminary investigation. It has a standing agreement with the Criminal Investigation and Detection Group, or CIDG, of the Philippine National Police (PNP) in this endeavor.

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<sup>49</sup> See Footnote 45.

John Rio Bautista, chief of AIRB's Operations and Surveillance Division, said his office arrested 11 illegal recruiters from January to June, 2003, and closed 18 establishments engaging in recruitment without proper licenses (personal communication, August 22, 2003).

An act of illegal recruitment is considered "simple," he said, if the number of victims does not exceed three, ditto with the number of recruiters; or "large-scale," which is non-bailable, if there are more than three recruiters involved in a given case. The penalty is from six months to six days' or one year to 12 years' imprisonment, depending on the gravity of the crime committed.

Bautista's office also provided legal assistance to 865 victims of 353 cases of illegal recruitment within the first six months of 2003, and endorsed 324 of these cases to the local courts for preliminary investigation. In a span of eight years, from 1995 to 2002, AIRB records show that 64 people had been convicted for illegal recruitment after the arrest of 214 suspects, while 78 illegal recruitment agencies were closed. These summed up to 506 court cases, involving 1,406 victims, in a span of seven years. Out of 261 court cases handled (involving 525 victims) in 1990 to 1995, only five people were convicted, 231 arrested, and 35 agencies closed.

### **Desecuritizing Philippine Migration**

The preceding section has shown evidence that the Philippine government had in the past failed to institute rapid policy responses to almost all issues affecting Filipino migrants in labor-receiving countries. Thus, government acted upon them only after these issues had gone out of control and become major crises, and threatened either the political existence of the ruling administration and/or the country's bilateral and multilateral relations with host-governments involved.

Had the government been able to desecuritize the issue early on, it could have averted diplomatic irritants with neighbors and allies, and have warded off more spending and the use of police and military forces in a number of migration cases, such as the pandemonium over the Contemplacion issue, the controversy over the Sioson case, and the hullabaloo over Filipino deportees from Sabah. Moreover, desecuritizing the issue

would have made the government take a proactive stance against it in various forms—which include, but not limited to, a comprehensive pre-deployment assistance, an anti-illegal recruitment drive with more teeth, and a more aggressive formal representations before host-governments.

“Desecuritization,” which, to reiterate here, means resolving an NTS issue by switching it “from an emergency mode to a normal political process,”<sup>50</sup> is, therefore, a better option than securitization. The latter may pave the way for grave abuse of power (such as by the Malaysian police with regard to Filipino deportees in Sabah), and even preventable deaths of Filipino toddlers and elders (in Malaysian camps provided for deportees); politically-charged executive decisions, mediocre legislative measures, and injury to persons, property and environment (as in the *Contemplacion* case); and increased spending for police and military deployment (as shown in both cases).

“By desecuritizing an issue, we avoid these important risks,” according to the IDSS-Ford’s analytical framework on NTS issue in Asia. It noted that a “political or military elite can exploit an act of securitization to curtail civil liberties, restrict the influence of certain domestic political institutions, or increase military budgets.”<sup>51</sup>

The IDSS-Ford project identifies such indicators of desecuritization as including those of securitization’s, “but in the reverse or opposite direction,” namely, decreasing budget resource allocations, and reduced or no involvement of the military. They may also include political resistance to securitization, altered political climate, resource constraints, and alternative means/framework found.<sup>52</sup>

The most recent development of this kind on the home front was when Arroyo ordered in June the withdrawal of the 51-man Philippine contingent in Iraq<sup>53</sup> three weeks ahead of its scheduled departure, in exchange for the life of Angelo de la Cruz, a Filipino truck

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<sup>50</sup> Institute of Defence and Strategic Studies, *Analytical Framework: IDSS-Ford project on non-traditional security in Asia*, p. 4.

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> The Philippines formed part of the so-called "Coalition of the Willing," a group of sovereign nations organized by the US to help fight terrorism in Iraq, which allegedly had kept weapons of mass destruction and maintained close relationship with the al-Qaida terrorist network headed by Osama bin Laden. Canberra harshly criticized Manila's pullout of its troops from Iraq while Washington removed Manila from its coalition list.

driver kidnapped by Iraqi militants.<sup>54</sup> Describing her move as the “defining decision of my presidency and in my life as a Filipino”<sup>55</sup>, Arroyo risked irking the ire of Washington to avert an impending political havoc that could have been comparable to the one wreaked by the Contemplacion issue on the Ramos administration in 1995.

Speaking before members of the foreign media and the diplomatic corps at the Manila Overseas Press Club on August 6, Arroyo said: “Why then did I bring our Filipino troops back home from Iraq? I trust that our allies will come to understand that the Philippines is in a special circumstance—unlike the US or Australia or Bulgaria and other countries—eight million Filipinos live and work abroad... The special anguish of Flor Contemplacion for our countrymen and the fact that the Philippines gets one-tenth of its GNP from overseas workers, indeed, is one of the eight realities of our foreign policy.”<sup>56</sup> She further stressed the government’s commitment to protect the interests of OFWs, whose role is crucial to the Philippines’ economic and social stability: “The life and livelihood of these courageous OFWs is hazardous enough without the threat of being held as a pawn in some terrorists’ chess game. Truck drivers and construction workers are highly vulnerable to terrorists’ attacks. In contrast, combat troops of other Coalition members are, by definition, not as vulnerable. They are armed, they stay in camps. Our people, our OFWs, are vulnerable. I sought to reduce that vulnerability by authorizing the departure of our Philippine troops after the turnover of sovereignty to the Iraqi people last June 28<sup>th</sup>.

“The abduction of Angelo de la Cruz merely accelerated the timetable, for the decision had been made beforehand. I have taken responsibility, I have no apologies, and I stuck to

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<sup>54</sup> J. Labog-Javellana, ‘Video of Angelo pleading was turning point,’ *Philippine Daily Inquirer*, 25 July 2004.

<sup>55</sup> *Ibid.*

<sup>56</sup> “The first reality is that the United States, China and Japan have a determining influence in the security situation and economic evolution of East Asia. The second reality is that more and more Philippine foreign policy decisions have to be made in the context of the ASEAN. Third, the international Islamic community becomes more and more important to the Philippines. Fourth, the coming years will see the redefinition of unilateral and inter-regional organizations, like the WTO, in promoting common interests. Fifth, the defense of the nation's sovereignty and the protection of its environment and natural resources can be carried out to the extent while it gets others to respect its rights over maritime territory. Number six, the country's economic growth will continue to require a lot of direct foreign investments. Number seven, a country that's as beautiful as the Philippines can benefit most quickly from international tourism. And, eight, our overseas Filipinos will continue to play a critical role in the country's economic and social stability.”

my oath. But let me emphasize that our people and our nation remain committed to our friends and allies abroad even as we remain true to our conviction here at home.”

Arroyo’s strongly-worded speech highlights the existential threat that a certain issue might have on an OFW or on migration, which has a direct and serious link to the ruling administration via local politics. It also shows that securitizing/desecuritizing such an NTS issue as migration is a political will that must prioritize the stability of domestic affairs, so that government can smoothly iron diplomatic irritants with a foreign country or a labor-receiving country.

*‘A Phenomenon that can’t be Ruled, but Managed’*

Confesor described as corporate export the first Filipino skilled workers sent abroad—to South Korea, specifically, to build that country’s massive infrastructure projects—during the time of strongman Ferdinand Marcos. She said, however, that today’s OFW deployment is far different from that. “OFW is migration, not corporate export.”

She said every Filipino migrant is a responsibility of the Philippine government, which should make formal representations with host-countries for amnesty for undocumented Filipinos. “We should give way to people’s mobility by managing strategies to our advantage because our workers are highly-skilled and educated in science and technology.” She added that government must increase its budget allocation for the protection of Filipino migrants.<sup>57</sup>

It’s an opinion shared by Brillantes saying that while one country’s laws have no bearing in another sovereign territory, the Philippine government may do well for its citizens by making representations with host-governments to ratify certain international conventions providing for the protection of migrant workers.

As of July, 2003, the United Nations’ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families came into force,

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<sup>57</sup> This is not to go against the idea of a decrease in budget as one of IDSS’ desecuritization indicators. The argument here is to allot more money (as compared to the present budget) for the prevention of future migration problems, a move that would, in the end, stem even further spending in dealing with blown-up cases.

becoming an international law after almost 13 years, as it garnered the ratifications of 20 countries<sup>58</sup> (Deen), 17 of which had signed it. The UN Convention, which was adopted by the UN General Assembly in December, 1990, “is aimed at protecting over 175 million migrant workers worldwide who are often deprived of their basic legal and human rights”. But the problem is that none of the popular labor-receiving countries have since ratified it.

Garcia said the conflict of laws between sovereign nations is always something to reckon with, since “criminal law is territorial.” Singapore’s not having the Miranda doctrine<sup>59</sup>, for instance, was a big problem with regard to the Contemplacion-Maga issue, she stressed.

Confesor said that government should now stop describing OFW deployment as a “stop-gap measure” that it could turn on or off as it pleased, or until the country is able to generate enough jobs for its people. “Because migration is a phenomenon, especially now that the Philippines has become a member of the World Trade Organization (WTO),” a world body of economies that pushes for global trading by gradually bringing down and eventually eliminating tariff barriers on a number of goods.

She said workers now can avail of more opportunities and training programs through various means, including the Internet, and therefore government can’t stop migration. “But still government likes to think that it is in control; it is not!” Stressing that “migration can’t be ruled, but managed,” Confesor said government must facilitate migration. “It has always been my recommendation that the role of government is both facilitator and protector.”

### *Post-March, 1995: An Altered Political Climate*

Susan Castrence, DFA spokesperson during the height of the Contemplacion issue and now Foreign Assistant Secretary for ASEAN Affairs, said, “There was a big shift of a

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<sup>58</sup> These were Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, Ghana, Guinea, Mexico, Morocco, the Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda, Uruguay, and Guatemala.

<sup>59</sup> A person's right to have a counsel present during custodial interrogation.

change in our migration policy right after the Contemplacion issue.”<sup>60</sup> Before 1995 “we were not that sophisticated about the political workings of labor migration”—that it is indeed a security issue that falls under foreign affairs.

She said that ASEAN members always foster an atmosphere of camaraderie and brotherhood among them, and therefore consider it a serious problem when their diplomatic relations are marred. “We don’t want to harass our investors, and I am sure that our neighbors also would want things to be that way.”

Garcia said “everything... ” has changed after 1995. “It (Contemplacion issue) has changed the way government handles cases affecting OFWs—by anticipating what the public’s reaction might be and informing the people that something is being done already. Yes, I must admit that we have changed our style [of governance and diplomacy] after 1995. Before that we really did not have guidelines on the protection of OFWs,” she admitted. “But now, we respond... to labor migration issues based on existing guidelines, and depending on the peculiarity of the post.” She added: “These days the consular divisions of our embassies have more power, flexibility, authority, and funds to carry out their duties in protecting our migrant workers. It’s not enough to rely on host-governments.”

Government now goes beyond mere diplomatic representations when it comes to Filipino migrants’ protection, since consular officials regularly check with OFWs groups regarding the plight of Filipinos overseas. In some cases, Garcia stressed, Philippine consular officials even teach beleaguered OFWs to pretend that they don’t speak and understand English much, so an interpreter from the embassy will be called to assist them in case of an interrogation by host-authorities over certain cases.

*‘Grave mistake’ done on Contemplacion.*

Officials even admit now that they had mishandled the Contemplacion case. “We made a grave mistake in handling the Contemplacion issue,” Garcia said, although she is convinced that Contemplacion “really did it beyond reasonable doubt.” She said she

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<sup>60</sup> Personal communication on 7 August 2003.

based her opinion on a report done by the US Federal Bureau of Investigation (FBI) on the issue.

Confesor, who was labor secretary during the height of the Contemplacion issue, agreed that government was wrong in the way it handled the case. “We made a mistake there,” she said, stressing that it was very late when government recognized the impact that the Contemplacion-Maga case might have on foreign affairs. “Little did government realize that it was a foreign affairs issue,” she recalled. “It was also a security issue. Remember that we almost cut diplomatic ties with Singapore, and that Filipinos burned the Singaporean flag in protest against the hanging of Flor Contemplacion?” Singapore had protested such an insulting act, she said. “[But] what could we do? We told them ours was a democratic society.”

She said government would have saved face had it not misread the political landscape, and would have informed instead the Filipino people earlier of the issue at hand. At the John F. Kennedy School of Government at Harvard University, wherein the Contemplacion-Maga issue became a course, Confesor, who took her master’s degree in government from the same school, said they were with the opinion that Manila was not fast enough in connecting with the people on the issue. So, the Philippine government “just failed to educate and inform the masses on the issue at hand, which could have been done through the media,” she stressed.

Government would have managed the Contemplacion crisis better had it used the media to its advantage (i.e., engaging in a vigorous information campaign that she was convicted of double murders in Singapore, a sovereign state that did not—and still does not—have the Miranda doctrine)<sup>61</sup>. The issue was not whether Contemplacion was guilty or not, but the way her own government had treated her.

Every Filipino had identified with Contemplacion, Confesor explained, since she was the “epitome of a female OFW; she was everyone’s sister, daughter, mother. She was the soul

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<sup>61</sup> This point is worth noting here since it had been the practice of Philippine officials to be standoffish toward the media every time there was a controversial OFW case brewing somewhere. It is likewise worth reiterating here, therefore, that the DFA has, after the Contemplacion fiasco, been aware about the power of the media in bringing government’s message to the people.



of migration.” She said “government just did not read it well. We just thought we’d read it well.” People were moving around, and migration was wounded—breaking up homes and families. We didn’t even have mechanisms to tackle the loss of family members.”

Confesor lamented that that was when “government understood too little, thus failing to put more time in formulating policies to advance the cause of Filipino migrants.” She said that by now government, officials and diplomats should have a better view of labor migration. “The ‘mental set’ of policymakers has changed after the Contemplacion issue. They’re now trying to make people understand that migration is not contrived.”

As such, the relevance of migration issue to the lives of every Filipino has also blurred, if not completely erased, the already thin-line between legal and illegal Filipino migrants. Government now looks at Filipinos abroad either as documented or undocumented. If a Filipino migrant gets into trouble in a foreign country due to the lack of necessary papers, s/he is considered by Manila as an undocumented Filipino, not an illegal Filipino migrant, who needs government assistance. Government can no longer let such a situation remain unattended without thinking of the dire political and diplomatic consequences ahead.

#### *OFWs and their personal lives.*

It may also help a lot in the desecuritization process if actors look into the personal lives of OFWs, as suggested by Dr. Michael Tan, chair of the Anthropology Department at the University of the Philippines Diliman. Speaking before a three-day seminar on migrant workers in Bangkok, Thailand, on February 14, 2003, Tan said it must be noted that people have personal lives, and don’t just migrate as workers. “They have physical, emotional and social needs, and how they respond to these needs could determine whether they will find themselves in vulnerable situations or not,” he said.<sup>62</sup>

Any issue on migrant workers, therefore, touches on reproductive health, which, Tan said, is defined by the World Health Organization (WHO) as: “The state of complete physical, mental and social well-being and not merely the absence of disease, in all matters relating

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<sup>62</sup> IPS, ‘Migration stories: Seminar summary,’ *Inter Press Service*, 14 February 2003. Available on <<http://www.ipsnews.net/migration/seminar/summary2.html>>.

to the reproductive system and to its structure, functions and processes.”<sup>63</sup> Sexual health, on the other hand, is defined by the UN as, “The integration of somatic, emotional and social concepts of an individual in ways which enrich and enhance one’s personality, communication, love and human relationships.”<sup>64</sup>

The risks that OFWs face for their reproductive and sexual health are not only occupationally-related, but also have an impact on their need for connectivity, intimacy and security. An OFW’s need for companionship may shape her behavior in a host-country, as compared to a woman back home who wouldn’t look at a man other than her husband. “But if she’s in another situation, where is feeling without her moorings?... without social anchors there, she is vulnerable.”<sup>65</sup>

Tan noted that in a foreign country, where Filipino migrants are more anxious and vulnerable, OFWs respond to risky situations depending on their value system, educational background, economic situation, even gender. “Risk factors are relative depending on where you are from and where you are headed.”<sup>66</sup>

He said, however, that technological advancement in communications has somehow bridged the physical gap between migrants and their families back home, helping them keep away from risky behavior. This means that families left behind at home likewise influence or shape the behavior of workers overseas and, therefore, “face the same risks,” Tan said, as they also have emotional and social needs.<sup>67</sup>

#### *Other Indicators of Desecuritization*

If recognized and applied at an early stage, many indicators of desecuritization could help resist the extreme politicization or full-fledged securitization of a number of NTS issues involving Philippine migration. They could reduce or ward off military involvement in an impending security threat and prevent the allocation of additional budget (as mentioned earlier in this section), and succeed in resolving NTS issues using alternative means.

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<sup>63</sup> Ibid.

<sup>64</sup> Ibid.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

POEA's Bautista, for instance, said he believes in the power of the media to help bring to the public such an important and timely issue as illegal recruitment. "The AIRB, in coordination with the PNP's CIDG, was able to advocate the law against illegal recruitment in various mediums," he stressed.

Since the start of 2003, Bautista has attended at least 30 radio interviews and four public service television programs calling for public's vigilance against illegal recruiters. He said the AIRB has recently begun resorting to other information campaigns, such as conducting orientations and seminars on anti-illegal recruitment, in coordination with local government units (LGUs) and NGOs.

Bautista also said the CIDG had already dismantled its office—which specifically handled complaints of illegal recruitment—at the POEA, since every police station in major towns and cities nationwide now has its own desk exclusively for said complaints. He said the move is in line with government's policy for a better and faster public service for OFWs, who are described as the country's modern heroes due to their dollar remittances that have kept the Philippine economy afloat.

Take also the cases of six Filipinos<sup>68</sup> who have been convicted for various criminal offenses—from robbery to drug trafficking—in Malaysia, and are now on the death row

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<sup>67</sup> Ibid.

<sup>68</sup> They are the following:

ANDY BAGINDAH, Male, Convicted for Drug Trafficking, in Prison Since December 1996

- Philippine officials have so far spent \$6,254 for several jail visitations
- Accused was caught red-handed in possession of 811 grams of cannabis
- Sentenced to death by hanging by the Sabah High Court in 1998, a conviction upheld by the Federal Court and the Court of Appeals
- Citing humanitarian reasons, the Philippine Embassy in Kuala Lumpur sent an appeal to the Sabah Governor for clemency
- Majid Bah Bahi, Andy's father, also wrote a letter of appeal for clemency
- Bagindah's execution was set for 14 March 2003
- Malaysia granted a 30-day stay of execution, following a meeting between Presidential Senior Adviser Roberto Romulo and Malaysian Acting Prime Minister Ahmad Badawi, on 12 March 2003
- Andy's father visited his son at the Central Prison in Kepyayan Kota Kinabalu on several occasions at government's expense
- Embassy transmitted Andy's father's second letter of appeal for pardon to the Governor of Sabah, but was denied

at Kepangan Prison in Kota Kinabalu. While these Filipino convicts were represented in court before by *counsel de officio*,<sup>69</sup> Brillantes said, the Philippine Embassy in Kuala Lumpur has hired private lawyers to further assist them on their appeal.

Government must have learned its lesson from past cases affecting OFWs, thus it is now doing something about similar events even at an early stage. As evidence, due to persistent representations made by embassy officials and by his family, Andy Bagindah, one of the six prisoners, has remained alive since his supposed hanging that had been granted only a 30-day stay beginning March 14, 2003.

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- Transmitted Andy's father's third letter of appeal, this time for the commutation of sentence, to the King of Malaysia

- Embassy has since been awaiting response

MUHAMAD "AHMAD" MUSLIMIN, Male, Armed Robbery, in Prison Since 1992

- Caught with two other Filipinos while robbing a jewelry store in Sandakan
- (Accomplices were freed as they surrendered to authorities while Ahmad engaged the police in a shootout, hurting some law enforcers)
- High Court handed down the death sentence, and the case is now pending at the Federal Court
- He is being represented by a *counsel de officio*

TIN BIN MOHAMAD, A.K.A. TALIB KAHAL, Male, Drug Trafficking

- Embassy officials have so far spent \$5,000 for jail visitations
- Convicted for violating Section 39-B of the Dangerous Drugs Act of 1952 and meted the death sentence by the Sabah High Court
- Embassy officials visited him in prison on 12 July 2001. They said Mohamad was in good spirits but his eyes were failing him. They left money with prison authorities for the purchase of a pair of spectacles. They advised him to be courteous with prison authorities and to maintain good conduct, since the Pardons Board gives much weight on what the jail warden recommends
- Government is trying to locate his next of kin, so they can write a letter of appeal to the Governor of Sabah

BASIR B. OMAR, Male, Possession of Illegal Drugs, in Prison Since 31 January 1990

- Arrested at a police checkpoint in Batu Putih, Sandakan in 1990 with a bag containing more than one kilogram of cannabis
- High Court handed down the death sentence, which is now pending at the Federal Court
- Being represented by a *counsel de officio*

JUL "JOE" JAILANI, Male, Possession of Illegal Drugs

- He claimed to have been framed by some of his friends after a falling out with them
- Death sentence was handed down by the High Court and is now pending at the Federal Court
- Embassy is looking for a private lawyer to handle his case on appeal

NELSON DIANA, Male, Drug Trafficking, in Prison Since 22 August 2002

- Upon arrival at the Kuala Lumpur International Airport on 22 August 2002, Diana booked a trip to Bangkok. When police announced an inspection after he was late in claiming his baggage, he admitted right away that it contained illegal drugs
- Police found 700 grams of cocaine inside the lining of his briefcase
- His passport revealed he traveled many times to Malaysia, Bangkok and Ecuador--known to be a drug syndicate's area of operation
- He was charged under Section 39-B of the Malaysian Dangerous Drugs Act of 1952, which carries a mandatory death sentence upon conviction
- Embassy representatives visited him in prison and have been attending all court hearings
- Government facilitates the exchange of communication between him and his family

<sup>69</sup> Counsel appointed by court for indigent litigants.

Every issue affecting OFWs—be it non-payment of wages or maltreatment—is a delicate matter that always threatens to spill over to political controversy, not to mention convicted Filipino migrants who are on the death row in a host-country. Unlike that of Contemplacion’s, the cases of these Filipinos have been closely monitored by Philippine officials at the embassy in Kuala Lumpur at the very start.

Brillantes said Manila does not have to move mountains, or indulge in so-called “legal and diplomatic arm-twisting” if indeed pieces of evidence presented have found certain Filipino migrants guilty of criminal cases leveled against them, as this might imperil relations with host-governments. But he stressed that it’s the duty of Philippine officials to see to it that the rights of beleaguered Filipinos are being protected, such as having the appropriate legal assistance.

Another case worth noting is that of the big number of unqualified Filipino entertainers entering South Korea three years ago that had alarmed Philippine officials, prompting them to make various representations with their counterparts in Seoul. Garcia said Arroyo also had made representations with Korean officials to help pass a law that would grant working visas to foreigners working as trainees in many Korean manufacturing companies.<sup>70</sup>

Manila, through its embassies in Bangkok and Seoul, acted swiftly in response to unqualified Filipino entertainers using Thailand as a jump-off point to South Korea. Seoul officials had agreed with their Manila counterparts to take part in the protection of Filipino migrant entertainers by granting work permits, starting June, 2003, only to those who have the ARB<sup>71</sup>.

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<sup>70</sup> Many Filipino migrant workers had been skirting the pre-departure qualifying rules imposed by Manila for overseas-bound entertainers by using a third country--in this case Thailand, which, being an ASEAN member, Filipinos don’t need a visa to enter--in order to get into South Korea. The embassy of South Korea in Bangkok had issued entertainer’s visa to Filipinos claiming to be musicians and wanting to work in South Korea, using their passports as the only basis for identification and qualification. Unqualified and undocumented migrant workers are susceptible to various kinds of abuses--from verbal, physical and sexual assaults to non-payment of wages by their employers. And it’s difficult for the Philippine government to keep tabs of Filipino migrants having no proper working documents, especially when they need assistance.

<sup>71</sup> See Footnote 35.

There also was a time when the Philippines had considered releasing an Indonesian terrorist<sup>72</sup> convicted in Manila, in exchange for the freedom of an imprisoned Filipino in Indonesia.<sup>73</sup> There are a number of Filipino workers, mostly professionals and those in the managerial level, working in Indonesia. Any backlash done by the terrorist's sympathizers would surely endanger the lives of these Filipinos.

Manila considered swapping Dwikarna with an unnamed Filipino languishing in an Indonesian jail, since the convicted terrorist's sympathizers were holding demonstrations in the Indonesian province of Sulawesi to pressure Manila to free Dwikarna. Government had in mind the safety of its migrant workers when it said that the planned prisoners' swap was aimed to calm down Dwikarna's sympathizers, who threatened to abduct Filipino workers in Indonesia.

Dwikarna has remained in prison while his three alleged accomplices were freed for lack of evidence, and his restless sympathizers have calmed down already. No prisoner exchange treaty has been forged between Manila and Jakarta, despite them being members of a regional grouping against terrorism that includes Malaysia and Cambodia.

Manila made a clever move by floating information that it was considering a prisoner swap with Indonesia, but at the same time making diplomatic representations with Jakarta that Dwikarna had been given a fair trial and would be treated well in jail. It also helped that it made it clear with the Filipinos that had the swap been realized, Dwikarna wouldn't have gone scot-free but detained in Indonesia.

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<sup>72</sup> Dwikarna Agus, a civil engineer and who admitted to be fourth in command of the Indonesian Mujahidin Council (MMI), an umbrella organization calling for the strict implementation of Islamic laws in Indonesia, was arrested by Philippine police and convicted by a regional trial court in Manila's suburb of Pasay City in July, 2002 for illegal possession of explosives and firearms. Having illegally entered the Philippines through the backdoor in Mindanao, Dwikarna also had been implicated in bombing attacks that claimed over a dozen lives in Metro Manila in December, 2000, and in a bomb attack on the Philippine Embassy in Jakarta four months earlier.

<sup>73</sup> G. Felongco, 'Manila plans prisoner swap accord with Jakarta,' *Gulf News*, 13 August 2003. Available on <<http://gulfnews.com/Articles/print.asp?ArticleID=60445>>.

## Some Conclusions

This paper has argued that all those political and diplomatic hullabaloes brought about by migration cases could have been averted had government treated them right away as an NTS issue and instituted mechanisms for their desecuritization, which is a better option than securitization. Securitizing an issue cannot be ruled out every time, however, in favor of desecuritizing it outright, as there may be few events linked to migration that are genuine surprises (like a mysterious death of a Filipino migrant, a domestic helper who runs away from her abusive employer, or a Filipino truck driver being kidnapped for ransom by extremist groups). In this case government must act promptly (before other actors take advantage of the situation) and securitize the issue by using speech acts (as a manifestation of its intention) in identifying an existential threat to referent objects. (Speech act creates existential threat, since making such involves the use of language in putting across a message, as well as performing a number of acts simultaneously, depending upon the actor's intention. A number of speech acts may also be created out of a single speech act.) This also would allow government to implement a fast and smooth transition from securitization to desecuritization processes in dealing with the issue of the moment.

And since Philippine migration is a phenomenon that won't seem to go away for generations to come, especially with today's growing globalization, or closer integration of economies through reduced or eliminated trade barriers, government must stop referring to OFWs deployment as a stop-gap measure that it tends to eradicate soon by generating more jobs at home. It must officially admit instead of encouraging Filipinos to work abroad, so it could further draw up clear-cut policies on migration. As such, it must not try to stop migration but find ways and means to adequately facilitate the flow of labor and see to it that the basic rights of OFWs and other Filipino migrants are well protected. The advances in technology and the Philippines' accession to the WTO have also made more information on economic opportunities and skills training elsewhere available to Filipinos, further toppling down immigration barriers.

While economics—the desire for a better life—is the major push-factor in outward migration, OFWs must be carefully looked at as not just workers earning a living for their families and country, but also as migrants having personal lives. As such, the

vulnerability of a migrant worker in a host-government is not only occupationally-related but also has something to do with his/her reproductive and sexual health.

While government has become more aggressive in foreign diplomacy regarding the protection of OFWs in host-countries, it has yet to substantially curb incidents of illegal recruitment in the local scene. Putting in place various safety nets during the pre-deployment phase makes sense, as this will help save Manila from future diplomatic irritants that might arise out of an OFW case. Protective mechanism, in other words, starts at home. And while one country's laws have no bearing in another sovereign territory, labor-sending governments, like the Philippines, may do well for their citizens by making representations with host-governments to ratify certain international conventions providing for the protection of migrant workers.



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