The Ethics of Bilateral Labor Agreements for Nurses

Perspectives from the Philippines

Klein R. Fernandez

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Abstract

The dissertation "*The Ethics of Bilateral Labor Agreement for Global Nurses - Perspectives from the Philippines*" is written in the research area of applied ethics and examines ethical aspects of labor migration in the specific area of healthcare, with the Philippines as an example. The central questions for the dissertation are the ethical issues of nurse migration in the Philippine context. These ethical concerns give rise to how the responsibility for such migration governance should be understood and designed. More specifically, the issue of responsibility is discussed in relation to the Philippine Government, and its counterpart foreign governments, for their use of the bilateral labor agreement (BLA) as a policy measure to manage the migration of nurses.

The thesis draws on from empirical studies of Filipino nurses' massive emigration and how this mobility affects individuals and the Philippine society. Historical description of the emergence of healthcare professionals as export products in the Philippines are also consulted. The country's colonial history is described, and its relevance to today's migration pattern is analyzed.

Based upon the empirical data on past and present Filipino health worker emigration, identified ethical implications are examined. Among these are the rights of individuals and the division of responsibilities between origin and destination countries in order to address the ethical implications the BLAs give rise to. In the theoretical part of the work, key elements from John Rawls' theories of justice (1971, 1993, 2001) are used to identify conditions of a crafting public policy that, ideally, should be met in agreement with the members of a liberal society. Thereafter, the ideal model of a BLA is constructed based on the main principles of justice. The model is used to examine the extent to which, if at all, the existing BLAs between the Philippines and countries like Japan and Germany can be considered as ethically defensible instruments for managing the emigration of nurses. Finally, a discussion on how such agreements should be designed to be ethically defensible is offered.

Key words: Nurse migration, ethics of migration, Rawls' theory of justice, bilateral labor agreements

Avhandlingen "The Ethics of Bilateral Labor Agreement for Global Nurses – Perspectives from the Philippines" är författad inom forskningsområdet tillämpad etik och undersöker etiska aspekter av kompetensmigration inom det specifika området vård och omsorg, med Filippinerna som ett exempel. De mest centrala frågorna för avhandlingen är vilka etiska frågor som kompetensmigration inom området vård och omsorg i en Filippinsk kontext ger upphov till liksom hur ansvaret för sådan migration bör förstås och utformas. Mer konkret diskuteras ansvarsfrågan i relation till den Filippinska statens bruk av bilaterala avtal avseende Filippinska sjuksköterskor.

Studien tar sin utgångspunkt i empiriska studier av massutvandringen av Filippinska sjuksköterskor och hur denna mobilitet påverkar enskilda individer liksom det Filippinska samhället. Den deskriptiva delen rymmer även en historisk beskrivning av framväxten av "vårdpersonal som en exportprodukt" i Filippinerna. Landets koloniala historia skildras och relevansen därav för dagens migrationsflöde analyseras.

Ur den inledande empiri-fokuserade delen extraheras ett antal frågor av etisk karaktär. Dessa rör primärt de rättigheter och skyldigheter liksom ansvar och ansvarsfördelning för de identifierade etiska implikationerna av rådande kompetensmigration. I en teoretisk, analytisk del av arbetet, används centrala element ur John Rawls teorier om rättvisa (1971, 1993, 2001) för att identifiera villkor som, idealt, bör vara uppfyllda i avtal som rör medborgare. Därefter tillämpas den ideala modellen på rådande bilaterala avtal gällande arbetskraftsutvandring inom vårdsektorn. Modellen och används för att undersöka i vilken grad, om alls, som de befintliga bilaterala avtalen som Filippinerna har utverkat med länder som Japan och Tyskland kan anses vara etiskt försvarbara instrument för att kontrollera flödet av arbetskraft inom vårdsektorn. Avslutningsvis diskuteras hur sådana avtal skulle behöva utformas för att vara etiskt försvarbara.

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Republic Act No. 7157, Philippine Foreign Service Act of 1991

Republic Act No. 11199, Philippine Social Security System Act of 2019

Republic Act No. 10022, Migrant Filipino Workers Act of 2010

Republic Act No 11035, Balik Scientist Act (Returning Scientist Program)

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Executive Order No. 247 s. 1987, Reorganizing The Philippine Overseas

Employment Administration And For Other Purposes

Kalusugang Pangkalahatan (Health for All))

Health Sector Reform Agenda in 2000

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Universal Declaration of Human Rights

Health

The Alma Ata Declaration of Primary Health Care and the Universal Health Coverage

WHO Framework for Tobacco Prevention and Control

UN 72/139 Global health and foreign policy: addressing the health of the most vulnerable for an inclusive society

WHO Code of Practice on the International Recruitment of Health Personnel

Labor

ILO Model Agreement on Temporary and Permanent Migration for Employment (1949)

ILO Model Provisions for the Maintenance of Social Security Recommendation 1983 (No. 167)

United Nation's Convention on the Protection of All Migrant Workers and Members of Their Families

General Principles and Operational Guidelines for Fair Recruitment on International Labor

Convention Resolution no. 89/The Model Bilateral Labor Agreement

ILO's Migration and Development Cooperation Framework

UN Global Pact for Safe and Orderly Migration

Bilateral Labor Agreements

Japan International Cooperation of Welfare Services (JICWELS)

GTZ Germany-Philippine Triple Win Project

List of Abbreviations/Acronyms

Rawlsian terms

ToJ	<i>A Theory of Justice</i>
PL	<i>Political Liberalism</i>
LoP	<i>The Law of Peoples</i>
JAF	<i>Justice as Fairness</i>
DoA	<i>Duty of Assistance</i>

Others

BLA/s	<i>Bilateral Labor Agreement/s</i>
WHO Code of Practice	<i>WHO Code of Practice on the International Recruitment of Health Personnel</i>
DOLE	<i>Department of Labor and Employment</i>
DOH	<i>Department of Health</i>
EU	<i>European Union</i>
GTZ	<i>Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH</i>
JPEPA	<i>Japan-Philippine Economic Partnership Agreement (JPEPA)</i>
ODA	<i>Official Development Assistance</i>
OECD	<i>Organisation for Economic Co-operation and Development</i>
OFW	<i>Overseas Filipino Workers (OFWs)</i>
ILO	<i>International Labour Organisation</i>
POEA	<i>Philippine Overseas Employment Agency</i>
SDGs	<i>Sustainable Development Goals</i>
UDHR	<i>Universal Declaration of Human Rights</i>
WHO	<i>World Health Organization</i>

List of Appendices

Appendix A: List of abstracts and overview of the list of publications included in the systematic literature review

Appendix B: WHO Code of Conduct for the International Recruitment of Health Personnel

Chapter One

Bilateral Labor Agreement for Nurses in the Time of Health Workforce Crisis

This dissertation investigates the moral permissibility of the practice of bilateral labor agreements (BLAs) that are used to manage the migration of Filipino nurses in time of global health workforce crisis. Yearly, the number of migrant Filipino health professionals increases at a faster rate for the reason that institutional policy instruments such as BLAs facilitate more efficient emigration. In 2015 alone, the Philippines produced 44,746 graduates in the medical and allied disciplines (Commission on Higher Education, 2016), and 22,175 Filipino nurses went abroad to practice their profession in various countries (Pacete, 2016). Between 1992-2008, the annual overseas deployment reached an average of 8,103 nurses, or a total of 147,755 (Encinas-Franco, 2010). However, this outflux is not new. During the last 40 years, the overseas deployment of nurses has been part of the Philippine labor export policy and at the backbone of the country's human resources development. Most likely it will continue to be so as long as global migration policies allow it to thrive (Tigno, 2014).

Nurse migration is also driven by a steady increase in demand for services. According to Liu *et al* (2017), the demand for health workers is estimated to stand at 80 million by 2030, which is twice the increase from the estimated stock of 42 million health personnel in 2013. But the forecast also shows that there are only 65 million health workers of projected supply, which leaves an estimated global shortfall of 15 million (Liu *et al*, 2017). According to the authors, the highest growth is found among upper-middle-income countries, driven by economic growth, population rise, and aging. With the predicted shortages, this may fuel global competition for skilled health workers. The European Commission, for instance, estimates that by the end of 2020, up to a million healthcare workers are needed to fill in the shortage of healthcare personnel in European countries (Buchan *et al*, 2013). Meanwhile, middle-income countries face workforce shortages because their demand for health workers exceeds supply. The case of low-income countries is alarming because they experience a low growth in both demand and supply of health workers. The scenario is far from the ideal to cover of essential health services (Liu *et al*, 2017). The shortage problem is exacerbated when a number of its healthcare workers leave poor countries to go to high-income countries (Kollar *et al*, 2013). These observations

suggest that the phenomenon seen within the broader context of what is called the “global health workforce crisis”. The adverse effects are mainly felt by developing countries. According to the WHO report (2016) on the global health workforce situation, the migration of health professionals directly endangers the four dimensions of health workforce – availability, accessibility, acceptability, and quality of healthcare services in developing countries. Arguably, this imbalance in healthcare provision is a moral concern. However, to Littlejohn *et al* (2012), regardless of the level of their economic development, all countries are experiencing nursing shortages, but the key to solving the problem resides mainly in policy responses of institutions at local, regional, national, and global levels.

In order to reach migration policies that better manage the movement of health professionals, a collaboration between countries of origin and destination is needed. This dissertation responds to calls for a sustainable management of health workers made by influential international organizations like the World Health Assembly’s endorsement of WHO Code of Practice on the International Recruitment of Health Personnel (hereinafter referred to as WHO Code of Practice) and the United Nations Assembly’s adoption of health workforce-related targets for 2030 Sustainable Development Goals. Both policy agendas are globally adopted with the ambition of making migration policies fairer amid the global health workforce crisis. The dissertation also advocates that the health workforce crisis must be understood as a question of justice. Hence, it goes beyond the prevailing explanatory paradigm of labor market analysis as the key to addressing the maldistribution effects of poor coordination and planning across local, national, and global entities on human resources for health. This doctoral thesis focuses on the current state-sanctioned deployment of nurses from the Philippines in the form of government-to-government BLAs. A case is made that the current practice of BLAs as an instrument to tackle the health workforce crisis is an ethical concern that needs attention. In order to reach an ethically defensible practice of BLAs in the context of health worker management, the different interests, rights, and duties at stake must be mapped and assessed. This thesis seeks to address this need. Elements from John Rawls’ theory of justice are used as a basis for weighing and balancing individual rights, choices, and aspirations of nurses and responsibilities of country-governments, for both origin and destination countries.

This introductory chapter presents a background against which the discussion of this thesis is set. The health workforce, it is argued, is a critical component of a democratic liberal government, and government bodies, which direct workforce migration, should be held morally responsible for the outcomes thereof. The thesis illustrates ethically relevant consequences of health professional migration in both origin and destination countries. It also depicts the reasons

that brought countries to sign an international accord on the recruitment of health professionals, which includes the use of BLAs. Against the backdrop on the empirical information of health worker migration in the Philippines, a set of normative questions are articulated. By analyzing these questions, conditions under which BLAs can be considered ethically acceptable are sought. Elements from John Rawls' three important works are used: (1) *A Theory of Justice* (1971), (2) *Political Liberalism* (1993), and (3) *The Law of Peoples* (1999). Rawlsian core concepts are used as tools to reach an ethical justification of BLAs for the managed migration of nurses. First, from *A Theory of Justice*, Rawls' two principles are used, (a) principle of equal liberty and (b) democratic equality. These principles integrate the key constitutive elements of an ideal contract that stems from a fair procedural process within the domestic apparatus of a liberal society. These principles of justice are employed as a basis of an ideal BLA for managing the migration of nurses. Second, in *Political Liberalism*, Rawls' political conception of the basic structure is discussed to show the importance of fairness in the actual procedure among the representatives in a hypothetical original position and how stability is attained once an overlapping consensus is reached among contracting parties regarding the basic primary goods. In this thesis, Rawls' procedural justice guides the formulation of the fair terms of BLAs for the mobility of nurses. Third, the DoA, i.e., one of the basic principles in *The Law of Peoples*, is used as a basis to discuss the political responsibility of public offices for morally problematic implications of the current practice of BLAs for nurses. These principles provide a better understanding of the conditions that must be satisfied for the governance of nurse emigration via BLAs to be fair. This concerns about the ways in which nation states should devise international agreements.

1. THE SITUATION OF FILIPINO NURSES

The massive outflux of Filipino health professionals is the center of attention of much research within the areas of demography, nursing, gender studies, international relations, and public health. Descriptive studies about the migration of nurses from the Philippines, which are undertaken mostly by social scientists, are sources for my ambition to portray the situation of nurses in the past and present. The aim is not to capture all ethical issues that have surfaced but to obtain a broad understanding of the many different implications that this phenomenon entails. The analysis covers three categories of stakeholders: the individual, the origin state, and the destination state. Three themes are deemed relevant: 1) production of nurses, their life aspirations, and the production's social costs; 2) origin state's failure to address unhealthy

working conditions of nurses; and, 3) nurses' dilemma at the destination countries. Even if many aspects are omitted, the empirical data are sufficient to identify ethical concerns in need of further analysis. This means that ethical issues are identified through a bottom-up approach.

1.1 Production of nurses, their life aspirations, and the social costs of migration

Multiple push and pull factors have been identified in several studies on Filipino nurse migration. But the discussion on the production of nurses in the Philippines is often addressed in isolation from these studies. I first illustrate the situation that potential migrant faces and analyze how this background influences an individual's decision to go abroad to work as a nurse. In an anthropological study, Prescott (2016) argues that the production of nurses in the Philippines starts in the earlier part of their socialization process. Families, instead of educational institutions, produce a nurse. The benefits received by Filipino migrants who moved to the US in the 1960s have made migration an attractive option among a new generation of migrants (Aguilar, 2009). Narratives from current nursing students depict ways in which aspirations are shaped and provide an alternative perspective and to some extent challenge the frequently cited reason on the freedom of movement.

Ronquillo *et al* (2011) brings out oral histories to portray "culture of migration" in the Philippines. The influential roles of cultural pressures and societal constructs illustrate the limited decision power of Filipino nurses. In many cases the choice of nursing as career path as well as to work abroad becomes a family affair rather than a matter of fulfilling personal aspirations. In effect, a generally optimistic attitude toward the nursing profession in the Philippines contributes to the growing demand for nursing education and creates an excess number of graduates, which can only be absorbed through overseas employment. Many Filipino parents encourage their children to get a nursing education and dissuade them from taking up studies that are aligned with their interests and ambitions and, more importantly, those that cannot bring them better employment prospects. In addition, many young Filipinos today face pressure from parents and close relatives to work abroad. In this way they can perform their filial duty by sending back remittances to their families (Advincular-Lopez, 2005). In a related manner, Arends-Kuenning *et al* (2014) claim that the "potential opportunity to immigrate" motivates students to enroll in the nursing education program. The generally favorable view of the profession explains in great part why families consider this as an investment. Would-be nurse migrants typically face conflicting interests when deciding whether or not to seek an occupation overseas. Either they are pursuing personal ambitions or obeying their parents'

wishes. The findings of Lupdag-Padama *et al* (2014) also confirm that households put a premium on the higher rate of return on investment for educational opportunities that lead them to practice a profession, such as nursing, abroad. However, Galvez-Tan, Sanchez, and Balanon (2005) note a mushrooming of diploma mills, or the so-called fly-by-night schools, in nursing education at the height of active recruitment of US hospitals in the early 1990s. Accommodating students *en masse* is not only detrimental to the declining quality of classroom instruction, but to the passing rates for licensing exams in recent years. These rates are declining significantly. Consequently, Dimaya *et al* (2012) note a drift in the general outlook of nurse trainees as compared to what nurses should have in carrying out their profession. The younger generation of nurses is more likely motivated to work abroad for their personal gain rather than nurturing empathy for their patients.

Many nurses describe their professional careers in the Philippines as almost hopeless that they see better options other than overseas employment. Reflecting on Maslow's concept of self-actualization, the level of happiness can explain Filipino nurses' paths to their self-actualization, career optimization, and being a good family member by being a provider (Yumol, 2010). Also, being at home in the US means pursuing their and others' self-actualization. Findings also reveal a multi-step immigration process in which nurses migrate from the Philippines to the Middle East region, especially Saudi Arabia, and finally to Canada. While emigration from the Philippines is mainly economically driven, migration from the Middle East to Canada is primarily motivated by the desire for Canadian citizenship for the family. The perceived social status and lifestyle in Canada motivates them to migrate to that country. The same study also finds that gender-based familial ideologies and perspectives on social status also influence the migration decision of this group of nurses. Urbi (2018) reinterprets migration among Filipino nurses as mainly a pathway to fulfilling family obligations and a manifestation of their debt of gratitude. Emigration offers a welcome opportunity for individual Filipino nurses to migrate abroad to achieve macroeconomic, professional, lifestyle, and social benefits (Marcus *et al*, 2014).

Meanwhile, many health care professionals shift career, e.g. from a doctor to becoming a nurse. At the peak of nursing recruitment in the early 2000s, thousands of registered local doctors took up nursing education as this was a faster lane to acquire a green card and settle permanently in the US (Pascual, *et al*, 2005). A study of this trend shows that there are approximately 2,000 doctors who became "nurse medics", and an increase to about 3,000 in the following year. In 2005, nearly 4,000 doctors were enrolled in nursing schools across the country (Galvez-Tan, Sanchez, and Balanon, 2005). In 2004 the Philippines Hospital

Association (as cited by Galvez-Tan, Sanchez, and Balanon, 2005) estimated that 80 percent of all public-sector physicians were currently or had already retrained as nurses. Many physicians in the Philippines return to school to obtain nursing degrees and licensing as registered nurses and emigrate to the United States in the hope of a better life. In connection to this, Labarda (2011) stresses the level of job satisfaction and dissatisfaction as the immediate antecedent in the intention to shift careers among medical doctors. However, factors such as age, support of children, and the length of medical practice are linked to their level of job satisfaction or dissatisfaction. Addressing these gaps requires time and resources. At the same time, migration is seen by some as an opportunity for professional growth and enhancement, and as a window for drafting more effective national and inter-country policy responses to health workforce mobility. To Castro-Palaganas *et al.* (2017), unless socioeconomic conditions are improved and health professionals are provided with better incentives, staying in the Philippines is not a viable option.

Major ethical issues arising from the social costs of nurse migration are widely investigated. For example, Espiritu (2005) notes the degree of social costs on the personal and family lives of Filipino health professionals such as broken dreams, missed family time, deferred careers, and shortened childhood. There is also an increase of emotional burden among women as they often bear the stress of family dissolution and the husband's bitterness over not meeting the cultural expectation of being the traditional breadwinner. Finlay (2015) furthers this view, as immediate consequences of migration such as family separation and loss of social support could have implications for the well-being and human capacity of Filipino nurses, their families, and communities.

While it can be said that family support, as well as the presence of support system from migratory networks in the country of origin and destination, are essential elements that support migration, Cortez (2016) finds significant but a weak correlation of nurse's length of stay at their host country to their level of social connectedness. Alonso-Garbayo and Maben (2009) notice that even if they have already settled abroad, Filipino nurses are only motivated by working temporarily for the immediate purpose of sending remittances to support their left-behind families. Along this line, the deep concern for the family is closely connected to other major ethical issues arising from nursing migration, such as dysfunctional family relationships, juvenile delinquency, and even psychological trauma for children who are left behind. On a more critical note, Castro-Palaganas *et al.* (2017) view that migration directly affects the household's increased consumerism and materialism, which fosters a dependency on overseas remittances.

1.2 Origin state's failure to address the unhealthy working conditions of nurses

Through the years, there has been a considerable faltering of the prestige of local nurses. This is mainly attributed to their poor working conditions in hospitals, which is in sharp contrast to the glamorized status of the nursing profession that has been a defining characteristic of Filipino modernity during the American period (Pablico, 1971). In a recent study of the factors of turnover intention in a small-town hospital, Labrague *et al* (2017) find that there is a greater intention for newly recruited nurses to leave once they are confronted with the nagging and never-ending complaints about low salaries, heavy workloads, and short-staffing problems. The level of stress and low job satisfaction further weakens their commitment to stay in the hospital. In a similar study, Amparado and Fuentes (2013) identify some factors affecting the turnover rate of clinical instructors in several local hospitals. Low salary, absence of overtime and hazard pay, and limited opportunities for employment are identified as migration pull factors, while the push factors identified include higher income, better benefits and compensation package, a chance to upgrade nursing skills, and the opportunity to travel and learn other cultures. The exploratory study of de Castro *et al* (2009) on the occupational health and safety of Filipino nurses also attests to the poor working conditions of nurses. At least 40% suffer an injury and 80% experience back pain within a year. Despite these work-related injuries, there is a tendency of underreporting of cases as nurses see it as not too important and basically as part of their job, while others do not see any mechanism for reporting.

Active overseas nurse deployment creates challenges in maintaining hospital facilities as well as training and retention of highly skilled nurses. At least 10% of the total 2,500 public hospitals and an approximately 2,000 privately-run hospitals are reported to have closed down (Lorenzo *et al*, 2007; Matsuno, 2009). This creates a severe problem of having an underserved health population in the rural and remote areas despite the excess supply of nurses. Exacerbating this, the government policy responses fail to capture the multilayered and complex nature of the phenomenon (Castro-Palaganas *et al*, 2017; Marcus *et al*, 2014). Glaring disparities are seen in the direct hospital service itself as senior and highly experienced nurses were also leaving their jobs. In the survey of Perrin *et al* (2007), a majority of nurses in selected Philippine hospitals are often younger due to fast turnover rates caused by migration. This puts hospital management into a weak position for retaining experienced nurses at the frontline services. Ball (2004) shares this view and further raises the question of long-term sustainability in the healthcare service delivery by pointing out that the best-educated nurses are leaving while the junior and least qualified are the ones who remain. In addition to understaffing and heavy workloads, there is a

limited capacity of government hospitals to provide training and regulatory framework for specialized training in oncology, nephrology, and other critical care. According to Tiongco-Cruda (2008), the Philippine Nursing Act of 2003 fails to make a dent in improving the work conditions of nurses. Among the implementation failures are the budgetary allocations to create more nurse positions in government hospitals, providing adequate supplies and equipment, and improving the facilities for nurses' welfare.

Galvez-Tan, Sanchez, and Balanon (2005) partly blame former President Marcos' dictatorial regime for mismanaging the economy, thereby prompting the exodus of nurses and other high-skilled professionals from the country. But to them, subsequent governments also inherited a series of fiscal crises that limited the government's tightrope budget for healthcare and other social services. It is thus no surprise that nurses sought better opportunities as the political turmoil will likely not change soon. In a public address, Allgood (2001) recalls herself as a young nurse who was deeply concerned about the possible rise of a dictator with the imposition of Martial Law in 1972. The political turmoil gave her a reason to migrate to the United States and she took advantage of the active recruitment at her university. The same also occurred with regard to the migration of Filipino nurses to the United Kingdom.

Ortiga (2018) contends that there is a migration trap taking place in the Philippines with the sudden change of job placements at the destination country due to the implementation of visa retrogression approval that took place in the United States in the early 2000s. Due to this, she warns about the looming "opportunity trap" phenomenon with the oversupply of nurse graduates who cannot be absorbed by local hospitals and are forced to look for jobs that do not utilize their academic credentials. It is also reported that hospitals would charge training fees among licensed nurses who were allowed to work as volunteers for them, with the justification that it upgrades their skills and competencies, and in turn, makes them more employable abroad (Pring and Roco, 2012). Alternative options are shifting careers to a lucrative call center industry and overseas domestic help work, even if it means degrading themselves to a much lower employment category (Yumol, 2010).

1.3 Nurses' dilemma in destination countries

Ball and Piper (2002) see the contemporary contract migration of nurses as an intensification of the brain drain that has evolved into a situation characterized by the weakening of the rights of nurses. Nurses are vulnerable to exposure to institutionalized discrimination and marginalization, as they can fill only positions that local talents are unwilling to take. There is

also no available legal recourse for them, particularly in the Middle Eastern countries. The partial status of foreign nurses' labor rights leads to discriminatory practices in their working environment, given the already deeply ingrained unfavorable view of Filipino women in Japanese society (Onuki, 2009). Filipino nurses, under the Japan-Philippines Economic Partnership Agreement (JPEPA), have limited social, economic, and political rights, which constrains them as political agents who can change and challenge the discriminatory structures of their daily lives (Onuki, 2009). Such vulnerability of foreign workers is explained by their limited Japanese language ability, which hinders them in asserting their rights in employment contracts. At the same time, the mediation mechanism to settle contract disputes is not easily accessible to foreign workers (Asato, 2012). Also, Pittman *et al* (2007) observe that US recruitment agencies typically require 18-36-month work contracts. However, these recruiters impose high breach-of-contract fees, provide inadequate orientation programs, and commit several other types of labor abuses. In addition, a phenomenological study of van den Broek and Grousis (2017) reveals the negative effects of prolonged uncertainties brought about by the lengthy waiting period for granting working and residency permits for aspiring nurses. More often than not they fall into the trap of employment intermediaries, who bridge them to senior citizen care facilities and earn money while their legal residence status has not changed.

It is equally important to highlight personal issues among nurses, which are generally related to their emotional hardships and health problems while integrating into a new country. O'Brien and Wang (2006) note that foreign-born nurses work longer hours, work more overtime, and are more likely to experience physical, verbal, and emotional abuse that can add to their possible poor physical and mental health situations. Similarly, Lin (2009) finds that Filipino nurses perceived that there were unethical actions committed against them despite existing prohibitive rules and regulations meant to prevent them. This regularly occurs for the simple reason that they barely acted to correct those lapses. Finlay (2015) highlights the need for a broad, holistic view of human security that incorporates Filipino nurses' objectives beyond financial and economic security, but also the human agency's feelings of safety and security, community participation, human well-being, and self-development.

Based on a systematic review, Montayre *et al* (2017) undertake a more comprehensive investigation of Filipino nurses' experience and conclude that work-related discrimination is the most commonly-cited answer. The feeling of exclusion from local hospital staff and professional stereotyping belittles their worth. Choi and Lyons (2012) investigate how work discrimination of Filipino nurses can limit career opportunities given their temporary residence status and dealing with the widely perceived inferior qualifications by their Singaporean counterparts.

According to them, structural discrimination stems from the dominant discourse being instilled among Singaporean locals who grew up believing that Filipinos are nothing but domestic helpers. In a related study, Vestal and Kautz (2008) note that despite high job satisfaction among nurses recruited from the Philippines, personal adjustments are necessary for their practice of nursing care to their patients who are often demanding and condescending. They often received condescending comments about their inferior competence because they look different and were schooled in a different country.

“Brain waste” is expected – a term describing the underutilized skills and talents that exist because an individual takes a job that requires lower skills than what he or she acquired in the origin country (Reitz, 2001). But the same phenomenon in the destination country is observed with the deskilling of nurses in the process of downward professional mobility. It is commonly happening to those highly skilled nurses who have followed a multi-destination path of mobility before settling in the country with liberal migration policies like Canada and the USA. Salami *et al* (2014) study the struggles of nurses whose career mobility grows dimmer due to deskilling and when their options narrow to the point of being caregivers or nurse assistants. They may be paid higher salaries at the expense of going through downward career mobility. In the case of caregivers in Canada, nurses are hired to make up the shortage of workers as a short-term strategy, which restricts them from gaining permanent resident status and thereby complicates the process of professional integration. The same is observed in the case of nurse medics – offering another illustrative case of downward career mobility. Since working as nurses is the viable option closest to their profession as a medical doctor, most of them may have experienced downward career mobility. In the investigation of Jauregui and Xu (2010), Filipino medical doctor-turned-nurse practitioners experience better transitions as they are clinically prepared in performing their roles. However, their collaboration with a physician now limits the level of their autonomy and independence in making decisions. These findings are also confirmed by Vapor and Xu (2011), who report that Filipino nurses who previously worked as medical doctors have low job satisfaction due to double-whammy adjustments, due mainly to cultural adaptation and trans-professional adaptation.

1.4 Bilateral labor agreement as an ethical policy solution

The WHO Code of Practice effectively provides the Philippine government with a further legal justification to institutionalize its long tradition of pursuing BLAs. Moreso, it stresses the need for an ethically acceptable instrument that can guide the Philippine government’s active

overseas deployment of health professionals. BLAs are arrangements that are intended to the faster movement of global professionals. However, its impact on the health workforce is underexamined from the perspective of justice. This thesis demonstrates the need for a careful reflection on ethics in the development of BLAs.

Using a systematic review, Makulec (2014) finds at least three functions of existing bilateral agreements in the Philippines; these are: (1) regulating the recruitment process, (2) providing mechanisms for the protection of migrants' rights, and (3) compensating for negative consequences for the outflow. But the Philippine experience shows that negotiations do not necessarily result in their implementation and end up as mere paper documents. The consequence of ill-conceived contracts can be detrimental to an individual's life opportunities and to the stability of society.

In the latter part of the dissertation I show how the current practice of BLA is a form of contract that lacks adherence to the principles of justice. Its procedure of justice is problematic. I unpack several ethical implications surrounding the potential controversies in the practice of the contemporary practice of BLAs. In Chapter 4 I initially describe the ethical consequences of BLA in current practice by exposing problematic areas of human rights violations committed against individual nurses, the neglect of the state in the provision of healthcare services, and an imbalance of power in international politics. This is followed by normative arguments derived from the Rawlsian perspective of justice in Chapter 5.

2. FRAMEWORK FOR ETHICAL ANALYSIS ON NURSES' MIGRATION

Recently, the ethics of nurse migration has received attention due to great concern about the further weakening of an already fragile health systems in developing countries (McElmurry *et al*, 2006). Earlier research focused on identifying the costs and benefits involving the forces of nursing migration (Stillwell *et al*, 2003; Borjas, G. 1989). More recent research done, e.g. Liu *et al* (2017) on the projection of the global need for health personnel, shows that the health systems in development countries are significantly weakened. While healthcare is endorsed as a human right, global inequities in access to healthcare widen. As a result, normative theorizing is needed to inform future policies on human resources for healthcare. Several ethical values are at stake: the right to healthcare, the freedom of choice of profession, the freedom of leaving one's own country, among many others (Delucas, 2014). A thorough reflection on the meanings of these rights and duties is warranted.

Before going to the core of the research problem, a brief overview of aspects that have been covered in the health worker emigration will be given. The divergence of views on migration has widened further in recent years, with the massive labor mobility and displacement of people reaching an unprecedented rate. For instance, the case of foreign guest workers is debated between the cosmopolitan and communitarian thinkers (Walzer, 1983 p. 52; Wellman, 2008; and Carens, 2013 p. 110). For Kaelin (2011), Rawls' liberal viewpoint is that migration of nurses undermines the human rights and liberties of people deprived of healthcare provider support. While the communitarian approach sees that countries are bonded with a shared history and a global thin morality that they need to move toward an asymmetrical relationship in developing their health systems. In this communitarian interpretation, Kaelin explains that the universal thin morality is a derivative from the normative potential found in Walzer's concept of thick morality among particular communities. Thin morality is formed at the interaction between the particular communities, in this case the destination and origin countries, and thus creates universal moral minimal standards. Based on this view, Rawls' focus on the far-reaching universal standards of justice is doing injustice to cultural diversity and the variety of lifestyles. These contending perspectives between cosmopolitans and communitarians are also at the core in the debate of Brock and Blake (2014) about the moral permissibility on the government restriction of liberties as the government is dealing with the health workforce crisis. They are weighing a set of rights – the right to movement of health professionals that includes the right to exit from and return to the place of origin, or the right of people to essential health services from government. Presenting the case of government control for immigration, Brock offers conditions by which conscription and community service for medical professionals can be morally permissible. Compulsory return of service is acceptable as long as the contracts are signed free from coercion and the terms for the length of stay are commensurate with the actual investments in education made by the government. Blake counters that the government's capacity to use coercive policies such as conscription and return service can easily succumb to its illiberal tendencies and that freedom of movement should never be violated at any time. Responsibility for the demand of healthcare needs must be shared equitably and not fall on the shoulders of health professionals alone. Although the debate creates more open-ended questions, it succeeds in going deeper into the moral aspect of introducing policies among migrant health workers.

Zapata-Barrero and Pecoud (2012) see that the debates on migration to have grown from being a polarizing field of a contest between cosmopolitanism and nationalism toward a more practical institutional approach. Viewed as the middle ground between the positions favoring either closed or open borders, transnational governance and its current migration policies need

normative reasoning under the principles and values of liberal democratic states. Similarly, Bader (2012) contends that existing institutions for transnational governance migration have fallen short of meeting even the barest minimum for moral requirements of justice. A framework is offered that contributes to explain the causal relationship between prevailing migration policies and *de facto* ethical problems faced by migrants. The framework also suggests ways in which sound policymaking can be had in the domain of migration governance. Bader seeks to include varying levels, mechanisms, and strategies of regulation, the multiplicity of actors, and the pluralism of normative arguments. The need for transnational governance of the migration of health workers motivates Eckenwiler (2013) to offer a social connection model as a policy response to the rising demand for long-term care for the elderly. Carving out from the original version of Young's (2003) structural injustice, the ecological ethics model takes "... *governments as responsible for making a central place for humans' shared need for care in environs that support capacities for becoming and duration for all their citizens and residents*" (Eckenwiler, 2013, p. 93). Applied to health workforce planning, ecological ethics requires long-term strategies that integrate all concerns across policy sectors such as economics, labor, and immigration and ensures the essential protections, and promotes the equality of healthcare workers. The ecological connectedness in human affairs has the potential to transform a private issue for individuals and families into a matter of central public concern.

These different scholarly approaches on the migration of health professionals indicate that the subject of justice in the global movement of nurses is directly associated with institutional reforms. Therefore, there is reason to focus on institutional management of the mobility of nurses and concomitant inequities in healthcare distribution. At the moment a practical solution to the ongoing health workforce crises is taken up in the international arena, and the World Health Assembly passed the WHO Code of Practice on in 2010. Even if the overarching focus of the WHO is on addressing the fundamental structure of health workforce management, a distinctive statement in the global accord is the promotion of BLAs in attaining safe and orderly migration of health professionals. This development deserves ethical scrutiny for the reason that in the past BLAs were controversial and were not analyzed beyond their economic impact on migration and development.

An aspect that merits special attention is the institutional focus of current migration management. The health workforce crisis is a case of failed institutions. Following Kingma (2007), the mobility of nurses is the symptom of more significant systemic problems rooted in many institutional issues on workplace retention, safety, and other features of a dysfunctional healthcare system. Moreover, the continuous migration of nurses and the apparent global

nursing shortage are partly explained by the regulatory environment generally governed by a set of policies covering an array of labor, health, and economic measures between the origin and destination countries (Peñaloza *et al*, 2011; Siyam and Dal Poz, 2014). There is also a fundamental disconnect in policies between countries with private recruiters in the middle of facilitating the movement of human resources, which eventually created ethical challenges in multiple scenarios (Habermann and Stagge, 2010; Oulton, 2006). Even with the recent adoption of voluntary codes for the ethical recruitment of health professionals, its real success depends on the creation of a robust governance framework that facilitates information sharing, monitoring, and implementation (Taylor *et al*, 2011). The success of international action to the nursing shortage, according to Ahmad (2005), requires active participation and cooperation of all the major players: developing countries, developed countries, multilateral agencies, and representatives of health professions. A thorough analysis of these ethical consequences stemming from policies of active recruitment and deployment of global nurses entails a systematic approach for ethical review. It should encompass different aspects of justice and mainly grounded on the role of institutions. Arguably, this is not just a simple question of maldistribution of human resources for health but a moral issue that needs more in-depth scrutiny from the perspective of justice.

Rawls' theory of justice and the concept of political responsibility are used to investigate the responsibility for migration governance. In this thesis, the Rawlsian principles of justice are introduced as tools to spell out what is needed for a fair basic structure for migration. Rawls formulates an ideal contract situation that is used as a model by which a moral justification can be made. This contract situation upholds the equal liberty of individuals while ensuring that the economic and social inequalities are arranged equitably. Institutions play a key role in the fair distribution of resources that favor those who are at a greater disadvantage. Agreements are reached a contract situation under the famous veil of ignorance. The principles of liberty and equality are to be complemented with the principle of democratic equality, two components – the principle of fair equality of opportunity and difference principle. The ideal and non-ideal theorizing are both used in the analysis to be conducted here. First, the hypothetical contract situation behind the veil of ignorance teases out the fair terms of a BLA for the mobility of global nurses. Out of this idealized contract follows the responsibility to fulfill the duty of assistance to the most disadvantaged population affected by large-scale health worker emigration. What follows next is the exercise of political responsibility pertaining to a bilateral agreement in a non-ideal scenario. Notwithstanding the burdened status of most origin countries, the BLA aims to reform the injustice toward the ideal basic structure of a liberal society.

2.1 Principles of Justice

In Rawlsian ideal theory, the basic structure of a society is the subject of justice. In Chapter 3, I explain the procedural and integrative processes of Rawls' theory of justice and how these are employed with the aim to recreate migration policies. The main principles used are those of liberty, equality, and equity. In addition, the nature of the contract situation that precedes BLAs makes Rawls' version of social contract theory relevant. Moreover, a reflective equilibrium process of moral justification is used to construct fair terms of negotiating for BLAs. That means, the final agreement follows pure procedural justice and takes into account the moral powers of rationality and reasonableness among contracting individuals. The principles of justice are central to Rawls' political thought and the basic structure as the main subject of these principles is effectively carried out in this ethical analysis. Rawls also emphasizes the importance of the account of feasibility on any product stemming from the reflective equilibrium process, and this process connects its practical application in solving the inequities created in pursuing BLAs. The principle of DoA extends part of the contract procedure to other countries.

2.2 Political responsibility

In a non-ideal theory, the Rawlsian principles of justice and the concept of political responsibility demonstrate what is required for a BLA to be ethically acceptable. Within the domestic sphere of a liberal society, each member is expected, by virtue of shared political responsibility, to ensure that the basic structure of a liberal state is fair. If the basic structure arranges equity issues, it follows that healthcare and migration structure should be the subject of justice. The glaring imbalance found in health workforce distribution is no more a question of who gets healthcare but a matter of how to distribute our health resources according to fairness as justice. This requires a form of responsibility that carries substantive political action as the nature of injustice is a historical confluence of structural policies from colonialization, trade liberalization, and the globalization of labor. In Chapter 3, I argue that there should be a shared political responsibility among countries to effectively manage the migration of nurses globally.

3. RESEARCH AIMS, OBJECTIVES, AND QUESTIONS

While BLAs have been subject to scholarly analysis, the ethics of such contracts has not gained attention as of yet. The terms of BLAs have not been analyzed from the perspective of justice. An overarching aim here is to investigate the practice of BLAs and analyze the moral

acceptability of such policy instruments from the perspective of justice. Since Rawls' theory of justice is concerned with domestic justice, it must be explained how the theory can be used to analyze international arrangement like BLAs for health workers. It should be noted that Rawls' theory of justice is used as a tool to define the fairness of contractual agreements and identify the conditions that should be respected.

Drawing on Rawls, it is shown that the underlying structure cannot be taken for granted. On the contrary, the social and political situation in which individuals are placed shapes the decision that they make, and so a fair starting point is necessary if the contracts to be developed to be just. This requires that it warrants the institutions are fair as well as the policies and directives enacted by those institutions.

Rawls' ideas of on fair contracting are used to describe what is required by intra-state agreements. This extension is motivated by the need to better manage the health inequities among the citizens of countries of origin. On the basis of the principle of fair access to equal opportunity, a government has an obligation to provide healthcare of the highest attainable standard and muster the resources needed to deliver it to their citizens. One option is to require nurses to remain in the country. This option, however, infringes on individuals' freedoms of choice and movement. To do so, I have the following objectives and their corresponding specific research questions are laid out:

1. Describe the current practice of BLAs and analyze their ethical implications to the migrant nurses as well as to the health workforce crisis.

The use of BLAs is the focus of many studies, both descriptive and normative. From a systematic review of such studies, an overview of ethical implications of BLAs that the Philippine Government has negotiated with different governments is offered. The ethical inquiry encompasses the relational sites, systems, and policies that connect the individual to the states, and consequently to the power relationships defining the prevailing international politics.

2. Employ John Rawls' theory of justice as a tool to articulate the obligations that hold between origin and destination states as contracting parties in a BLA.

The principles of justice are employed as a basis to spell out fair terms of negotiations of BLAs. The Rawlsian concept of political responsibility is introduced to

show that the structure for BLAs is the subject of justice. In stressing the importance of political responsibility of a sovereign nation, it follows that the states have duties toward their fellow members in a global community. In the case of migration of nurses, the core concern is carrying out the principles of justice in the negotiations for bilateral agreement. It also follows that if there is enough cooperation to create new burdens and new wealth, and there is a need to decide how to allocate these burdens and this wealth, this may well be enough for justice to apply, at least minimally (Garcia, 2006 p. 376). Instead, the case is made that global justice does not need a full-blown social contract on the domestic model, as *de facto* transnational collaboration raises shared problems of fair distribution that can motivate a principle approach to justice. In the case of the global economy it can be said that trade and globalization are changing the nature of global social relationships such that the whole question of the political community is transformed. The traditional paradigm of the political community of justice within the nation state is no longer self-sufficient as wealth distributions are fundamentally influenced by transnational and global institutions (Garcia, 2003, p. 376; 2013 p. 18). This means that even domestic justice cannot be fully understood without reference to global institutions, creating what might be called “limited community”, thereby necessitating at least a limited theory of global economic justice. The same is applied in the case reforming the structure of migration and how BLA can be improved in such a way.

3. Analyze the extent to which the obligations identified should be satisfied in practice that will be highlighted in the idealized contract agreement.

I utilize Rawls’ principle on the duty of assistance to articulate aspects that must be considered when a nation state – in the case of the Philippines - is negotiating conditions for its nurses to emigrate to other countries. Drawing on Rawls’ duty of assistance, the case is made that development assistance should be an integral component of the BLA. As a matter of political responsibility, a liberal state should extend the main principles of justice governing its domestic concerns to also include its foreign affairs policy. But in the absence of a political responsibility that is global in scope and the inherent weakness of international institutions for governing migration, the duty of assistance protects and preserves the main principles of justice afforded to each of the migrant nurses.

4. Based on the above, recommendations will be made as to how BLAs should be structured and used in managing the migration of nurses, particularly for the origin countries.

I offer a feasibility test on the social contract analysis about the practice of BLAs with reference to Rawls' political construction of justice. The feasibility test encompasses the principles of both justice and pure procedural justice. Based on the outcomes of the prior set of objectives, ethical recommendations are offered as to how BLAs should be structured and used. The final step is to show the practical application and feasibility of the ideal BLA as it has reached the fixed point of moral justification within the reflective equilibrium process. It is premised that an ideal BLA can never be achieved. What can be achieved, however, is a wider scope of moral justification that stems from a continuous revision and adjustment of our judgment. Negotiating BLAs should work within the present international order. Hence, the imbalance of power relationships between countries is considered in order to achieve diplomatic tools for agreement and cooperation for better-managed migration of health workers.

4. STRUCTURE

This thesis consists of eight chapters. Each chapter is connected through a progressive style of reasoning – from interrogating different angles of health worker migration toward a proposal for ethically justifiable options for migration policy. In the introduction, it is shown how certain background conditions shape the situation of individual migrants and cause ethical concerns. In Chapter 2, a design for descriptive study is presented based on the systematic review of the literature about the phenomenal migration of nurses from the Philippines. Selected scholarly journal articles, state policy documents, and legislative measures are included in the systematic review.

Chapter 3 investigates the scope of political responsibility in reforming the conditions for migrating nurses. Rawls' principles are used as a basis to articulate political responsibility for transnational nurse migration. This thesis focuses on the situation of Filipino nurses. First, it is made clear what the principles of justice require under ideal conditions. Second, political responsibility under non-ideal circumstances is explored, especially regarding those burdened societies that cannot meet the ideal principles of justice due to social and economic situations. Rawlsian principles of justice are employed as the core moral foundation of political

responsibility. Hence, the concept of political responsibility extended beyond the ideal concept in order to address the injustice found in the migration structure for the Filipino nurses' century-old migration is expounded in this chapter.

Having identified a set of ethical concerns in relation to nurse migration, the Rawlsian social contract approach is applied in Chapter 4. Policies of the past that have contributed to current injustices are illuminated. Ethical implications of the current practices of BLAs for international health workers are also discussed in detail. In Chapter 5, Rawls' contract theory is used to develop standards that the process of negotiating BLAs should adhere to in order to be ethically defensible. An ideal BLA as domestic policy is constructed as an outcome of the first stage of moral justification.

Chapter 6 has a forward-looking perspective, applying Rawls' guideline in carrying out the duty of assistance in the context of BLA. First, it describes the ethical implications of how developed countries offer assistance to developing countries today. The section explains why developing countries should provide development assistance as an integral part of the BLA. This is done by means of a Rawlsian understanding of political responsibility. Requirements that nation states should fulfill in order to take due responsibility are explicated. It argues that political responsibility is different from both charity and humanitarian assistance.

In Chapter 7 the feasibility of BLA is tested. This is the final stage of reflective equilibrium that should be viewed as a resting point in justifying ethically acceptable policy solutions for managing the migration of nurses. Different real-world scenarios are presented within which the Filipino diplomats negotiate with representatives for different types of political regimes. These scenarios are intended to disclose whether the BLA is tenable or not. Chapter 8 concludes the analysis of the ethical justifiability of BLAs and suggests areas in need of further scholarly research. The final chapter addresses the normative dimensions of policy issues in the context of the migration of health professionals. In particular, it highlights the implications of the BLA that is endorsed.

Chapter Two

A Descriptive Study of Filipino Health Workers Migration

The country in focus, the Philippines, is the top exporter of health care workers to developed countries. It is one of the first few countries to openly adopt affirmative policy support of the deployment of its nurses. Moreover, Filipino health workers become a pillar of the Philippine national human resources development plan. There has been a longstanding vision to make the terms of migration for all health professionals fairer (Fleck, 2019; Department of Labor and Employment, 2020). Aggressive labor market development and bilateral agreements were the key instruments. As such, the Philippines provides an illustrative case. In better understanding the phenomenon, this chapter provides a methodological approach in providing a descriptive study of the Filipino health worker migration. A design for systematic analysis of the historical development of the Philippine Constitution, legislative measures, bilateral labor agreements and international policy documents, which have influenced the formal practice of nursing profession in the country, is also presented.

1. METHODOLOGICAL CONSIDERATIONS

The important aspects of doing a descriptive study on the migration of Filipino nurses are explained under this section. In particular, the unit of analysis explains the different parameters and concepts used in the study. The various sources and uses of moral facts as important elements in the process of moral justification for the BLAs are also offered.

1.1 Unit of analysis in a contract situation

This study utilizes a structural approach to ethical analysis. This means that the state, as a composite body of laws, offices, and people, is the most important unit and is assessed as an institutional whole. Nurses, as autonomous and rational moral actors, are also a unit of analysis in a contract situation. At the individual level, the life stories of nurses are sources of morally relevant facts. Descriptive studies are available but will need systematic reinterpretation through the lenses of Rawls' philosophical work. The global actors involved in nursing migration are the

third unit of analysis (to ascertain the extent of the recruitment procedure, deployment, and placement of migrant nurses).

Moreover, there is also a need to clarify the operational definition of the terms 'country of origin' and 'country of destination'. Both terms are used throughout the discussion of the dissertation. In reference to the migration lexicon published by the International Organisation for Migration (2020), 'country of origin' is the country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly. While the 'country of destination' is defined as a country that is the destination for a person or a group of persons, irrespective of whether they migrate regularly or irregularly. This approach may not capture the other vital elements that drive the current pattern of migration, particularly the political domain by which the policy structure mainly rests. However, there are different terminologies widely used in migration research that currently demand further clarification. In the absence of universally agreed operational definition of these terms, the terms 'country of origin' and 'country of destination' as suggested by the ILO's Model of Bilateral Labor Agreement (1949) are used in this dissertation. These terms are also frequently used in most of the BLAs.

1.2 Use of morally relevant facts in different stages of judgments

This thesis aims to reveal ethical implications of global nurse migration, taking the situation of Filipino nurses as a case in point. On Filipino nurse migration have been sought and subjected to systematic review. The ethical investigation of bilateral agreements that the Philippine Government signed in the last 15 years is made. Finally, whether the recommended solutions are feasible or not is informed by relevant facts from diplomatic conduct.

a. Literature review of the background condition of migrant Filipino nurses

The first step is to systematically analyze the descriptive studies on nurse migration. To do this, a systematic search of relevant electronic databases (e.g., Web of Science, PubMed and Google Scholar) was conducted with the use of standard criteria for inclusion and exclusion. The identified findings in the literature was reviewed on the basis of a topical guide. A four-step systematic review process is done. The first step maps out the descriptive ethical studies on nurse migration based on the current literature on this topic (time: 1900-2019).

Table 1 A systematic review of descriptive studies on Filipino nurse migration (1900-2019)

1.0 Background condition of Filipino Nurses		2.0 Structuring migration of nurses	
1.1 Moral problems in the production nurses	Production of nurses as investment Prescott (2016) Ronquillo, <i>et al</i> (2011) Arends-Kuenning, <i>et al</i> (2014) Padama et al (2014) Galvez-Tan, Sanchez, and Balanon (2005) Dimaya et al (2012) Alonso-Garbayo and Maben (2009)	2.1 Structural legacies of colonial medicine to migration	Anderson (2006) Heiser (1918) Anderson (2009) McElhinny (2009) McCalmont (1909) Choy (2003) Brush (2007, 2008, 2010,) Jurado, 2013 Aguilar (2014) Espiritu (2005) Gibson and Graham (2003)
	Aspirations for better living Yumol, 2010 Urbi (2018) Marcus, et al (2014) Labarda (2011) Castro-Palaganas et al (2017)	2.2 Boom and bust cycle of immigration policies	Kruennings <i>et al</i> (2014) Blythe and Bauman (2012) Inimarga (2004) Jurado (2014) Bello (1969) Joyce and Hunt (1982) Wasem (2005)
	Public system failure Pablico (1971) Labrague, <i>et al</i> (2017) Amparado and Fuentes (2013) de Castro et al (2009)	2.3 Commodification	Yumol (2010) Onuki (2009) Inamarga (2009) Masselink and Lee-Sy (2013) Masselink (2009) Cortes <i>et al</i> (2015) Goode (2009) Rodriguez and Schwenken (2013) Rodriguez (2005) Acacio (2007) Masselink and Lee-Sy (2010) Ortiga (2014)
1.2 Origin state's moral failings	Migration and opportunity traps Ortiga (2018) Pring and Roco (2012) Yumol (2010)	2.4 Bilateral Labor Agreements	Gonzales (1998) Rodriguez (2010) Amante, 2011) Peji (2010)
	Political turmoil Tan, <i>et al</i> (2005) Allgood (2001)		
	Public health system breakdown Lorenzo et al (2007) Matsuno (2009) Palaganas, et al (2017) Marcus <i>et al</i> (2014) Perrin <i>et al</i> (2007) Ball (2004) Tiongco (2008)		
1.3 Nurse's dilemma at destination countries	Unprotected human rights Ball and Piper (2002) Onuki (2009) Asato (2012) Pittman <i>et al</i> (2007) van den Broek and Groutsis (2017)	3.0 Ethical Implications	
	Unfair working conditions O'Brien and Wang (2006) Lin (2009) Finlay (2015)	3.0 Ethical implications of bilateral labor agreements	Makulec 2014 Yagi, <i>et al</i> (2013) Kamaguchi <i>et al</i> (2012) Añonuevo (2011) Inagi <i>et al</i> (2013) Yujuico (2015) Ford and Kawashima (2016) Asato (2012)
	Discrimination and racism Montayre <i>et al</i> (2017) Choi and Lyons (2012) Vestal and Kautz (2008)		
	Downward mobility Salami <i>et al</i> (2014) Jauregui 2010 Vapor and Xu (2011)		

As shown in Table 1, a systematic search of relevant electronic databases is generated through the EBSCO platform hosted by Linköping University Library System and duly cross-checked with other widely used databases such as Google Scholar, Web of Science and PubMed. Publications from the locally hosted electronic database for Philippine-related studies, called e-journal.ph, are also generated. Reference to databases from major Philippine universities are also culled out, including manuscript and thesis publications. From this process, a total record of 178 articles appear from search keywords “nursing migration” and “Philippines”. Only 71 articles are finally selected based on the criteria of inclusion (Philippine context, nurse migrants) and exclusion (double publication, unavailability of records).

The selected articles of descriptive ethics literature are systematically reviewed based on a content analysis guideline, with specific uses of codes and categories. Focused research questions further refined the categories and subsequent analysis of the discourses. A content analysis guide composed of codes for systematic review was constructed and yielded three main themes, as summarized in the table on the last page. The discussion of the results is presented as part of the background situation of Filipino nurses. One challenge is that of striking balance between the empirical literature, or the descriptive arguments in moral philosophy, and the normative literature. The added value of doing this literature review is that it provides historical and political contexts of global migration of nurses of relevance to the ethical analysis. In Chapter 4, the historical basis of contract labor migration provides an understanding for the development of the present structure of the global migration of Filipino nurses.

b. Analysis of policy documents

The next step is to identify, collect, and critically review available national and international policies and guidelines addressing nurse migration. International organizations such as the World Health Organization and International Labour Organisation have existing specific guidelines and policies on this matter. Standing labor laws and regulations in the Philippines are collated and assessed. These are the highlighted key documents in the development of migration policies:

1987 Philippine Freedom Constitution. An analysis is presented on the political construction of social justice based on the voluminous written documentation of the deliberation of the 1987 Philippine Constitution. The Constitutional Commission is a 50-delegate multisectoral body tasked to draft a new constitution for its transition to liberal democracy after the fall of the 20-year

dictatorship. Transcripts during the deliberation are reviewed and analyzed. This is critical as the future laws relating to the practice of nursing, protection of migrant workers, and the public health welfare are derived from these basic documents that contain the lengthy discourse of social justice.

Philippine Nursing Act. A critical assessment of the evolution of Philippine Nursing Law, from its first enactment during the First Philippine Legislature (1915), its several amendments, and until the current one passed in 2002, is presented. The intent of reviewing the laws on the nursing profession is to acknowledge the role of policies in the creation of the global migration structure of health professionals.

Overseas Filipino Workers Act. Philippines' historical dependence on labor export also sheds light on the discourse of human rights protection of its citizens. Through this law, it includes an array of policy instruments by which suggested standards of managed migration of contract labor are set. In here reflects the social justice objective of the Philippines, by which it upholds the human rights regime by which the Constitution is framed.

WHO Code of Practice on the International Recruitment of Health

Personnel. In response to current and future implications of the imbalance in the distribution of health professionals, the World Health Assembly adopted in 2010 the WHO Code of Practice as the policy platform in managing the movement of health personnel ethically. This recent development in international health diplomacy allows countries to manage the migration of their health professionals and to lessen the stress it creates on their fragile health system.

Bilateral labor agreements. The Philippines is seen to be the forerunner in pursuing bilateral agreements for human resources on health due to its historical dependence on human labor export. A careful analysis is done to assess the moral justification of bilateral agreement as it is applied in the converging fields of global health and migration. Currently, there are at least 15 BLAs that the Philippine Government has negotiated for the deployment of its human health resources to developed countries (POEA, 2020). Analysis of these agreements is

central in this research as it refers to the social justice objectives enunciated in the first three documents (Philippine Nursing Act, Philippine Constitution, and the Overseas Filipino Migrants Act).

ILO Conventions on Labor and Migration. There is a set of international accord about labor and migration. These agreements are considered as part of rendering a principle-based moral justification process and reach a partial considered judgment on the use of BLAs. As the international labor accord has a global in reach and universal in application, policies as sources of moral principles be an integral part of the BLA.

The idea of social justice is a complex notion in the Philippine context. Here, an attempt is made to trace the formation of knowledge concerning the construction of social justice by the earlier members of the Philippine Congress. This sets the context in the relevant use of Rawls' idea of political liberalism that sets the importance of democratic participation for allowing the citizenry to prioritize, debate, and accept the list of primary goods that determine the underlying construct of society. The interaction of discourses between domestic policies of the Philippines and international policy relating to the migration of health workers. For further reference, a comprehensive list of these documents is provided under the List of Laws. The discussion of the results is presented in Chapter 5 as part of the moral justification of constructing an ideal BLA.

c. Duty of assistance in a bilateral labor agreement

The use of empirical data on justifying the duty of assistance is taken from the amount of Official Development Assistance (ODA), foreign remittances, and foreign direct investments in the Philippines. The analysis of distribution aid, remittances, and foreign direct investments further informs a set of recommendations that offer a solid ground for future decisions concerning international nurse recruitment and the development of an ethical code of practice. These sets of data also provide information in proposing for the integration of development assistance as a major component in the BLAs.

2. LIMITATIONS OF THE STUDY

Although the study aims to be comprehensive in its systematic review, some articles and books are missed out from the final evaluation. Various reasons can be given like the inability of search engine platform to capture the assigned keywords, and unpublished articles. It is also possible that publications, which are written, e.g. in Japanese and German languages, are not possibly captured in the databases search. A systematic search for new publication of journal articles is continuously done after the initial phase and duly considered in the final review. Requests were made for articles from different universities who hold hard copies that cannot be accessible online. This limitation is, however, mitigated through a careful data analysis plan and strict guidance for thematic analysis.

Conducting key informant interviews to gather the background situation of nurses was suggested before the start of the research work. While it was included in the original research design, it was decided later on to focus on the systematic review of the available published articles that can be easily accessible from Linköping University's library search engine. The migration of Filipino nurses is widely studied, and the number of scholarly articles is sufficient to reach a credible empirical basis of their background situation. In addition, the opportunity to present the initial results before a diverse group of participants in at least two project workshops on the health workforce crisis organized by the Centre for Applied Ethics in Davao City, Philippines, and Linköping University, Sweden, has helped get feedback and validation of moral facts.

Another important limitation is related to the level of diplomatic secrecy involved in the request of documents, particularly on the preparatory meetings before the final signing of BLAs. I file a Freedom of Information request *via* the Philippine government web portal. The information officer denies the request due to the sensitive nature of documents. The deliberations of the negotiations are important moral facts that may render relevant in the moral justification process. To make up in for this lack of information, related documents that are publicly available are analyzed and considered in the process of moral justification of pursuing BLAs. Initial results of the dissertation are also shared to practicing labor attaches, diplomats, and legislative staff working for the Philippine Government in order to obtain their view, whether if it represents the actual groundwork for negotiating BLAs or not. Their views and opinions are important elements in shaping the account on the feasibility of the proposed ideal BLA for nurses that I offer. With this also comes the call for more transparency in sharing public documents for the purpose of doing effective research in the future. At the moment, the

study contends with what existing rules that the Freedom of Information allows for accessing confidential government documents. Only those documents that can be officially requested from the regular line of communication from public offices are used in this dissertation.

Finally, it is understood from the outset that the aim of justification process is to arrive with a wider moral judgment in the use of the BLA for migrant nurses after the coherence of all facts, judgments, and principles. However, it is important to stress that the dominant policy discourses for BLAs may bear biases leaning toward the countries of origin. In contrast, the morally relevant facts and arguments from the perspective of destination countries may not be fairly articulated in the discussion. This limitation is acknowledged by the fact that the current literature reveals more ethical problems raised from the point of view of the origin countries. It is, however, equally important to balance and weigh the arguments of destination countries by raising relevant principles in the process of moral justification.

In the next chapter, on top of the concern is to critically assess the permissibility of a burdened state in facilitating overseas nurse deployment, and, determine its responsibility for the harm sustained by its left-behind population who unjustly suffers the inadequacy of public health care. From the ideal standpoint, the concept of Rawls' theory of justice is introduced to strengthen further the argument that the structure for BLA as the subject of justice.

Chapter Three

Rawls' Theory of Justice

The conditions in the Philippines described in the first chapter entail several ethical problems that require political action and reform through just institutions. In this chapter Rawls' principles of justice are explained in order to guide the proposed reforms on the migration policies for Filipino nurses. The aim is to describe John Rawls' main work on the *Theory of Justice* (1973; 2005a), which suggests the main principles of justice in developing the basic structure of a liberal society. The requirements of a fair contract procedure for the political conception of justice developed in *Political Liberalism* (1993; 1996) are also expounded. Rawls also specifies principles for both ideal and non-ideal conditions and describes what is required to reach a contract that is not only fair but also feasible and stable over time. Rawls' ideal theory, which is developed in *The Law of Peoples* (1999), contains a norm of a just society that is structured on principles that everyone has reason to support. And the acceptability of existing institutions can be judged in the light of these principles (ToJ, p. 246). In non-ideal theory, Rawls explains how the long-term goal in assisting burdened societies might be achieved in a stepwise manner and how such steps can be effective (LoP, p. 89). Once these main concepts are properly described, the next aim is to investigate the extent to which government responsibility is applied to use the BLA as an instrument to address the global health workforce crisis. At the end of this chapter, Rawls' theory of justice is applied to ethically justify the use of BLAs as a policy instrument to address the workforce shortage in healthcare. A case is made that the main responsibility of the Philippine authorities and their contracting parties is to reform domestic executive policies and legislative measures regarding nurse migration.

1. POLITICAL CONCEPTION OF THE IDEAL THEORY OF JUSTICE

In the earlier part of his scholarship, Rawls focuses on the domestic theory of justice, and particularly on the natural duties and obligations of individuals. Then follows his main ideas of political liberalism that provide a thorough explanation of a narrower political conception of justice and the basic structure of society. Understanding the core ideas of Rawls' theory of justice is an essential step in analyzing the moral permissibility of BLAs.

1.1 Ideas of Political Liberalism

Rawls supports a pluralist society and believes that a stable political order can be reached even if the subjects of this order hold different opinions of the good. However, in order to reach an overlapping consensus – a state in which different beliefs across political, economic, religious, and cultural gradients can be had – subjects must first leave aside their comprehensive doctrines. Importantly, political liberalism is not yet part of Rawls' *A Theory of Justice*, i.e., justice as fairness. Questions dealt with in *Political Liberalism* are those that must be dealt with before justice can be properly secured – legitimacy and stability. In his subsequent work, Rawls makes a political turn and stresses a political conception of justice (Yack, 2017). This explains the role of institutional principles that comprise the public system of rules defining the economic arrangement and political order within the constitutional framework. In *Political Liberalism*, Rawls discusses ways in which reasonable pluralism can be achieved in a liberal society. In the same work, Rawls also elaborates on justice as fairness as a political conception of justice. He employs a special understanding of the person and society. Individuals are understood as reasonable citizens, i.e., as members of a political society. He explains what it means for individuals to be reasonable citizens. Each citizen holds her or his own comprehensive doctrines. But since citizens are reasonable, they do not wish to impose their own comprehensive doctrines on others. Rather, they are willing to reach mutually agreeable rules. These notions are keys to understanding his form of political liberalism.

There are three main ideas in Rawls' political liberalism. The first is that of Overlapping Consensus. Liberal democracies grow from an assortment of religious, political, and economic comprehensive doctrines. Rawls seeks a thin, political conception of justice that can unify the many different religious and political conceptions that prevail in society. The ideal is reasonable pluralism under which each citizen affirms a political conception of comprehensive doctrines (LoP, p. 170-171). A political conception of the basic structure should not be derived from a single comprehensive doctrine, and it has to undergo a series of deliberations until it reaches a state of overlapping consensus. The next step is a constitutional consensus between overlapping comprehensive doctrines that are founded on the political conception of justice.

The Idea of Priorities of Rights and Ideas of Good is the second main thesis of political liberalism. According to Rawls, the basic civil liberties, e.g., the freedom of thought and liberty of conscience, movement and choices of occupation, productive income and wealth, and the basis of self-respect, are admissible only if these rights are compatible with other comprehensive doctrines worthy of allegiance once there is an overlapping consensus. Rawls develops

conditions through which ideas of the goods are found. He explains how rationality works in the elaboration of the list of primary goods. The list is a collection of basic rights and liberties covered by the first principle of justice, and the aims of each of the parties within the original position. Rationality is exercised in the deliberation process in which the contracting parties are weighing options on how primary goods should be distributed. It is crucial to bear in mind that the conception of justice is political. That is, primary goods specify the needs of citizens. The rights and liberties are what the individuals need irrespective of the particular features of a certain society or differences in the moral, intellectual, and physical properties of individuals. Injustices and unfairness stemming from such variations should be addressed once principles of justice are satisfied. Primary goods work in two ways. For the individual, it means exercising two moral powers and participating in fair social cooperation. And within the scheme of cooperation of a well-ordered society, the final end of the goods is socially conceived through the interdependence of actions among peoples.

Lastly, the Idea of Public Reason relates to the ideal conception of citizenship in a constitutional democratic regime. Rawls depicts the vital function of the Supreme Court as the institution that preserves the content of public reason and guides a constitutional society. Public reason is the highest, though not final, interpreter of laws. This is in congruence with the nature of political conception, which affirms two main liberal political values: first, the substantive principles of justice for the basic structure, and second, is a guide to a public inquiry.

1.2 Original Position: moral conception of good and principles of justice

Rawls explains political constructivism as a preliminary basis for the conception of society. To Rawls, the political conception of justice based on a certain procedure within reasonable pluralism is the only condition under which an individual exercises rational autonomy. Rawls develops justice as fairness within the tradition of political constructivism. This is done by employing the original position and the veil of ignorance. The original position is a procedure that can lay bare what is required to reach a fair scheme of cooperation.

In the original position the principles of justice safeguard a fair procedure in the construction of social and political institutions. A veil of ignorance is prescribed as part of a contract device that guarantees fairness when a group of representatives come together to agree on the design of the future society. When making this guarantee, representatives have the task of identifying the principles that should serve as the basis for the future society. These individuals possess moral powers – the capacity of a sense of justice and the capacity to accept and revise

the conception of good (PL, p. 19). These moral powers are innate to autonomous individuals. They can make a well-informed, rational decision and reach reasonable terms of agreement within the fair scheme of cooperation in a liberal society. Rationality and reasonableness are key concepts that Rawls magnifies in his work on political liberalism as part of the representation process in the original position. On the one hand, individuals are rational in the sense that they can understand what is requested of them to reach certain desired ends. On the other hand, they possess reasonableness – a capacity that has a public character whereby individuals are willing to subject themselves to fair terms of cooperation and accordingly take on the burdens of their judgment. In a contract situation, rationality and reasonableness become mutually exclusive aspects of the individual's moral power. These are two aspects of the ideal democratic citizenship in a liberal society. Whereas, rationality consists of a means-end calculation of the most efficient means to one's ends, reasonableness consists of equitableness whereby one respects the rights of other persons as well as oneself (Gewirth, 1983). It is assumed that citizens have symmetrical information and are acting rationally based on their ends. However, since under the veil of ignorance no one has the superior bargaining power, it is expected that they become reasonable within the social cooperation in reaching agreements. Political liberalism strives toward a reasonable pluralism that allows rational citizens to accept a basis of justification in setting a fundamental political question (LoP, xix).

When faced with the task of drafting a social contract in the original position, individuals are equipped with a variety of moral conceptions of the good. Even if the contract-making individuals are stripped of some information, they do have the capacity to form life plans in accordance with what they value. A life plan comes in two phases (ToJ, p. 408-409). First is one of the plans that are consistent with the principle of rational choice when applied to all the relevant features of his or her situation. Second is the plan among those meeting this condition, which would be chosen by a person with the full deliberative rationality. Rawls (1999, p. 387) gives a premise on the account of human rationality to the theory of goods, to wit:

"... primary goods are necessary conditions for realizing the powers of moral personality and are all-purpose means for a sufficiently wide range of final ends presupposing various general facts about human wants and abilities, their characteristic phases and requirements of nurture, relations of social interdependence, and much else."

The procedure for the conception of justice has four-stages. Initially, the original position gathers representatives of free and equal persons to decide on the main principles of justice that will govern the basic structure of society. Under the veil of ignorance, the representatives lack knowledge of others' backgrounds with either historical circumstances or with socio-economic status. The procedure of justice as fairness, in its aims and effects, should be neutral. And so, Rawls proposes the two main principles of justice to guide the construction of the basic structure of society. The first principle of equal liberty affirms the basic freedoms and rights of individuals in all normal circumstances and that they are protected under a constitutional framework. The second principle of justice pertains to democratic equality. The emphasis is on the principle of fair equality of opportunity and difference principle that require institutional mechanism for the regulation of the distribution of primary goods. A strict lexical order of the two principles of justice includes the procedural content of justice. This means that neither of the principles can be satisfied separately.

The second stage follows a constitutional convention. Rawls spells out the background institutions that will govern regulatory areas in many forms of economic activities. He believes that:

“...an economic system regulates what things are produced and by what means, who receives them in return for which contributions, and how large a fraction of social resources are devoted to saving and to the provision of public goods...dealing with all of these matters should be arranged in ways that satisfy the two principles of justice” (ToJ, p. 266).

This passage serves as the key to the constructivist approach to justice as basic to Rawls' procedural justice. Later, the task is to derive a normative idea based on Rawls' pure procedural justice in a constitutional liberal democracy that will be the basis of negotiating fair terms of the contract in pursuing BLAs.

The third stage shows how Rawls' governing principles of justice are used to form the basic structure of society. It prescribes fair access to opportunities and creates a preferential advantage for those who are disadvantaged. This becomes more important in the succeeding discussion since there are several discourses on the relationship between civil liberties and basic primacy goods that are called into question by the global migration of nurses.

The last stage pertains to Rawls' idea of public reason as part of the constitutional framework of liberal democracy, which clarifies the political relationship between the individual's civil liberties and the basic structure. Rawls adds that:

“... the political relationship between citizens and the basic structure of society implies further an equal share in the coercive political power that citizens exercise over one another by voting or other ways; as reasonable and rational, they should be ready to explain their action to one another consistent with their freedom and equality” (PL, p. 216 - 217).

Rawls also stresses that to understand one's role as a democratic citizen is to understand the meaning of public reason (PL, p. 218). This means that when an individual seeks to be in social union with others under the conduct of civility, each is governed by what the others might reasonably accept, and not as a political compromise. In other words, to Rawls, a constitutional framework of liberal democracy satisfies the principles of justice because it explains how individuals exercise their moral judgments within the legislative process and public offices tasked to redistribute resources in favor of the disadvantaged.

2. PRINCIPLES OF JUSTICE

Rawls demonstrates what an ideal social contract would look like as a constitutional democratic society duly conceived by free and equal persons. In *Political Liberalism*, Rawls takes on two main challenges: (1) legitimacy and (2) stability. The first challenge concerns the legitimate use of coercive political power. The legitimacy of the use of such power is proper only when it is exercised in accordance with a constitution (the essentials of which all free and equal citizens may reasonably expect to endorse in the light of principles and ideals acceptable to their common human reason) (PL, p. 137). The second deals with the necessity of support from the citizenry. A democratic society that is held together only by accommodating a plurality of ideas can be seen as unstable (PL, p. 4). As mentioned above, Rawls elaborates on justice as fairness as a political conception of justice – not a metaphysical one. To Rawls, the conception of the person and society are two main ideas that are pertinent to the understanding of the basic elements of political liberalism. His original position is a recasting of the earlier concept of social contract doctrine. However, Rawls describes the background condition for the representative individuals, who are of equal standing, that allows a fair procedure for the conception of justice. As a constructivist, three main principles govern specific contract agreements to the individuals, the basic structure, and the conduct of nations. But to Rawls, among the principles to choose from, those pertaining to the basic structure of the society are to

be agreed first, principles for individuals next, followed by those for the law of nations. The argument is raised in Chapter 4 that the primary concern of justice is the basic structure, such that the main principles of justice can be derived in setting the terms of the private contract for individuals and the conduct of nations.

2.1 Principle for the social individuals: contract as an expression of equal moral status

Rawls begins with the principle of fairness that maintains the stability of the basic structure of society. There is a connection between the principle of fairness and political affairs *via* the principle of fidelity and the social practice of promising. Promising is a publicly shared system of norms necessary for just actions. For a promise to be binding:

“... one must be fully conscious, in a rational frame of mind, and know the meaning of the operative words, their use in making promises, and so on... these words must be spoken freely or voluntarily, when one is not subject to threats or coercion, and in situations where one has a reasonably fair bargaining position, so to speak” (ToJ, p. 344 - 345).

A fair basic structure inspires individuals to uphold justice. Fair terms of contract naturally stem also from the relationship of individuals based on certain principles of action. The principle of fairness is found in the day-to-day moral conduct of individuals who are continually engaged in different contract situations. Moreover, private contract law can be seen as an institution within the basic structure that fulfills at least two important functions (Kjinsma, 2015). Institutions are needed to facilitate the legal exchanges, particularly in the economic transactions between individuals. More importantly, contract law preserves the background justice as it acts as a framework by which individuals conduct their transactions. Simply put, the basic structure stabilizes the form of contract situation entered into between private individuals. This form of private contract is related to the next principle of fairness applied to institutions.

2.2 Principle for institutions: contract as procedural justice of the basic structure

Rawls' social contract theory is offered to generate “...a guiding idea that the principles of justice for the basic structure of society are the object of the original agreement” (ToJ, p. 11). In the original position, the principles of justice are accepted by rational and reasonable individuals under a veil of ignorance. The veil of ignorance is used to extract principles that will regulate

future agreements, specify the kinds of social cooperation allowable, and define the forms of governments. Rawls coins the term justice as fairness, which corresponds to the hypothetical contract situation in which individuals are fair in relation to each other. Individuals are also fair in terms of their moral status, in the sense that they are rational beings and capable of a sense of justice. Moreover, the initial situation implies that no one knows their circumstances, social status, or the distribution of natural assets (ToJ, p. 12).

Pure procedural justice within the basic structure follows from the lexical ordering of the principles of justice and is sensitive to justice as fairness as the final outcome. Rawls emphasizes the first principle of liberty as a constructive element for the basic structure of society. The second principle has two components that are lexically ordered, which further strengthens the role of the first principle of liberty. The principle of fair equality of opportunity requires institutions that embody the main idea of democratic equality. Fair equality of opportunity ensures that social cooperation is one that resembles the pure procedural justice that can withstand the arbitrariness relating to relative changes in the social positions. Individuals have the natural duty to support the institutions because they have an overarching interest in the realization of social goods. They also realize the needs of others and the meaning of being a member of a community. The second part is the difference principle, which takes into account the variations between the social positions among individuals. Any attempt or mechanism to regulate this difference should eventually favor the maximization of the welfare of the worst off. However, there is a restriction to the extent that the principle of justice is applied to the basic structure, and this precludes regulating the conduct of the individuals. The division of moral labor for institutions will give space:

“... for individuals and associations that are outside the basic institutions for them to advance their ends more effectively within the framework of the basic structure, secure in the knowledge that elsewhere in the social system necessary corrections to preserve the background justice instead” (PL, p. 268 - 269).

Rawls views primary goods as the basis for expectation among individuals to contribute to the stability of the basic structure that promotes social unity in the long run. Thus, primary goods are broadly defined as categories of rights and liberties, opportunities and powers, income, and wealth (ToJ, p. 92). In a later restatement (JAF, p. 58), Rawls views primary goods as things that are needed and required by persons under a political conception of persons, i.e., as

citizens who are fully cooperating members of society and not merely as human beings apart from any normative conception. They are things that citizens need as free and equal persons living a complete life. Rawls not only identifies morally relevant goods, but connects the relationship between the individuals and the basic structure. He shows that the basic structure is a political basis for social unity. Primary goods are deliberated and agreed upon within the constitutional framework of liberal democracy. These component parts are useful in teasing out an ideal BLA for Filipino nurses later. Rawls (1999, p. 366) clarifies that:

“Given the set-up of the original position, the assumption is that the parties can best represent citizens as free and equal moral persons by deciding between the principles of justice according to how securely these principles provide for all citizens the primary goods. To ground this assumption, an explanation of why it is rational for the parties to assess principles of justice in terms of primary goods is needed.”

The second part of an idealized BLA is described in Table 1, which deals with the principle of democratic equality. The list covers the granting of equal status to migrant nurses in exercising their civil, social, and political rights to be afforded by the attached public offices in the basic structure that regulates labor migration. Rawls gives priority to the principles of justice, and the prioritization of primary goods is regulated through a constructivist approach. Moreover, the prioritization uses the procedural process ordinarily present in a liberal basic structure of democracy.

Table 2: Idealized bilateral labor agreements based on Rawls' idea of good and principles of justice

Basic Primary Goods	Principle of Equal Liberty	Principle of democratic equality	
Rawls (1982) argues that the moral conception of goods as part of rational life planning is already present prior to the start of the original position. Basic primary goods will form part of one's expectations of choosing the main principles of justice and support to the basic structure.	Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, in which the scheme is compatible with the same scheme of liberties for all (JAF, 2001)	Social and economic inequities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity (JAF, 2001)	
		Fair equality of opportunity	Difference Principle
<ul style="list-style-type: none"> - The basic liberties (freedom of thought and liberty of conscience, etc.) are the background institutions necessary for the development and exercise of the capacity to decide upon and revise, and rationally to pursue, a conception of the good. Similarly, these liberties allow for the development and exercise of the sense of right and justice under political and social conditions that are free. - Freedom of movement and free choice of occupation against a background of diverse opportunities are required for the pursuit of final ends as well as to give effect to a decision to revise and change them, if one so desires. - Powers and prerogative of offices of responsibility are needed to give scope to various self-governing and social capacities of the self. - Income and wealth, understood broadly as they must be, are all-purpose means (having an exchange value) for achieving directly or indirectly a wide range of ends, whatever they happen to be. - The social bases for self-respect are those aspects of basic institutions that are normally essential if citizens are to have a lively sense of their own worth as moral persons and to be able to realize their highest-order interests and advance their ends with self-confidence. 	<ul style="list-style-type: none"> - Right to self-determination for life choices - Right to movement and choice of occupation - Right to equal pay for equal work - Right to decent work 	<ul style="list-style-type: none"> - Attached to offices and positions open to all under conditions of fair equality of opportunity: - Joint monitoring and compliance on implementing BLAs exchange - Exchange of information in the labor market - Action against misleading propaganda - Validity of documents - Orderly departure and safe integration - Information assistance of migrants - Supervision of living and working conditions - Settlement of disputes - Portability arrangement of social insurance and health benefits - Reintegration plan 	<ul style="list-style-type: none"> - Policy on health workforce development - Skills training and development - Reintegration for returning migrants
<ul style="list-style-type: none"> - The basic primary goods can be expanded to include the right to health that will depend on the mutual agreements of the representatives at the original position. Nozick (1982) - Right to social protection support 	Less extensive liberty must be strengthened for the total system shared by all. A less than equal liberty must be acceptable to those citizens with lesser liberty.		

Hart (1973) disputes Rawls' priority of liberty as an ideal choice of the principle of justice, as he instead sees the lexical ordering as a manifestation of the rational choices innate to individuals, who are driven by self-interest prior to choosing the principles of justice at the original position. Hart's first critique pertains to the grounds by which basic liberties are adopted by parties and agreeing on their priority. In response, Rawls points out the priority of the first principle over the second. This explains why assigning a special status of liberty allows for the regulation or restriction of other basic liberties. Attempts to enlarge the list of primary goods tend to come at the cost of weakening the basic liberties that are essential in the full development and exercise of the moral powers of individuals over a complete life. As to the second part of Hart's critique on the applicability of the principles of justice, Rawls demonstrates high profile cases, such as the freedom of speech and doctrine of clear and present danger, by which the application and re-adjustments of principles of justice in constitutional, legislative, and judicial bodies can be attained.

In related criticism, Barry (1973) contends that the priority of liberty as a trade-off scheme in the lexical ordering of the principles of justice, that is, greater liberties may restrict the lesser form of liberties. In his later work in *Justice as Fairness* (2001, p. 46-47) Rawls states that the lexical ordering of principle is not a trade-off but a regulatory mechanism. The priority of liberty is taken holistically and with how it is connected to the background institutions. To Rawls, the principle of justice should be enshrined in a constitutional framework agreed upon by a convention of representatives at the initial position. Only then the prioritization process is realized, as the pure procedural justice facilitates the orderly deliberation among the representatives from the start.

2.3 Principle on the conduct of nations: contract as foreign diplomacy

Once the ideal basic structure and processes of a domestic liberal society are agreed on, the foreign policy should emanate from it, and consequently, regulate the collaboration with other free and democratic peoples, the so-called well-ordered societies (LoP, 1999 p. 128). In what Rawls imagines as a representative society, the principles of justice that govern the basic structure can be a shared basis for cooperation of well-ordered societies. In *The Law of Peoples*, Rawls extends his idea of political liberalism to the realm of international relations. Basic fairness among peoples is achieved through their equal representation in the second original position, with its veil of ignorance. Thus, the representatives of peoples want to preserve the independence of their own society and its equality in relation to others – in the working of

organizations and loose confederations of peoples to serve the many ends that peoples share. In this case, larger and smaller peoples will be ready to make returns. In addition, the parties will formulate guidelines for setting up cooperative organizations and will agree to standards of fairness for trade as well as to certain provisions for mutual assistance. Should these cooperative organizations have unjustified distributive effects, these would have to be corrected in the basic structure of the Society of Peoples (ToJ, p. 115). He outlines eight principles that liberal societies should observe in their respective foreign policies with the other well-ordered societies. The governance structure is designed to be a cooperative scheme for the societies of peoples for liberal values to thrive and maintain perpetual stability. In an attempt to make the closest approximation of the difference principle that can be applied globally, Rawls prefers the principle on the duty of assistance (DoA) as the moral basis for a transfer of resources from privileged liberal societies to the burdened societies. As a transitory action, liberal peoples have a duty to help other people's living under unfavorable conditions, for instance circumstances that prevent them from having a just or decent political and social regime. It is not meant to perfectly equalize the global distribution of resources. Rather, it is a transformative vehicle that can promote non-liberal societies to transition toward a well-ordered society.

In summing up, the fair terms of a contract mean different levels of liberal justice. The first level pertains to the principle of fidelity, for instance, as the act of promising and a part of natural obligation among individuals, which governs the private character of contracts. Fairness in the Rawlsian contract theory enlarges an individual's natural obligation to other individuals. The second level is applied to the domestic basic structure. The social cooperative process among individuals defines the contract behavior leading to the basic structure of the society. Lastly, Rawls writes about tolerance, transparency, and commitment as core attitudes in formulating the ideal construction at the international level. It will be shown later in the chapter how these principles on the fair terms of the contract can be applied in negotiating a BLA. Primarily, the BLA is formulated as domestic migration policy, and thereafter, a domestic policy with foreign affairs implications. In Chapter 5 an idealized BLA as a migration policy is presented using Rawls' domestic theory of justice. In Chapter 6 the BLA is carried further as a foreign policy tool.

3. POLITICAL RESPONSIBILITY IN IDEAL AND NON-IDEAL SITUATIONS

Rawls' main principles of justice is closely related with the concept of responsibility. In a democratic liberal society, each individual has a responsibility to realize the goals of justice as

applied in both domestic and global issues. In particular, the extent of political responsibility becomes an important piece of discussion in reforming the current practice of BLA as a migration policy measure. Hence, it is important to tease out the specific contents of responsibility required for A BLA to be ethically sound. I will start on at least three areas where responsibility to justice is deemed relevant: the basic institution as the responsible site of justice, the distributive goal of justice as the ground for responsibility, and the domestic and global scope of carrying out responsibility:

3.1 Site of justice

The basic structure is the unifying framework of major social institutions of a liberal society. It is for this reason that the first subject of justice is the institution, as substantiated in the last section. Initially, the basic structure should reflect the principles of justice as an organizational requirement. It should also safeguard economic efficiency to ensure equal liberty and fair equality of opportunity. In a sense, the two principles of justice regulate entitlements for individuals *in lieu* of their relationship on the fair cooperation scheme within the basic structure. The free and equal moral person doctrine then distinguishes political liberalism from the utilitarian aim of great sum value based on pain and capacity as well as the superiority of specific social forms.

The principles do not necessarily cover every conduct of individuals or institutions that affect an individual's chances in life. To be more precise, Rawls adds that:

"... the principles of justice for institutions must not be confused with principles which apply to individuals and their actions in particular circumstances... these two kinds of principles apply to a different subject and must be discussed separately" (ToJ, p. 54 - 47).

Moreover, the exclusive focus on institutions preserves space for day-to-day activities, decisions, and the setting of expectations free from continuous state intervention. It relieves individuals of the complex task of evaluating. In effect, social justice is not compromised in allowing persons to live meaningful and worthwhile separate lives as it is consistent with valuing pluralism (Tan, 2012, p. 34). The presumption of pluralism crucially explains the motivation for the institutional approach, in light of the fragmented character of value, an institutional focus allows for a way of approximating the boundary of justice and its rightful

demands on a person (Tan, 2012, p.31). Scheffler (2006, p. 107) agrees that the division of moral labor is an expression of or a response to the moral pluralism underlying the institutional framework rather than the ideal. It means that the common and dominant moral goal is efficiency, which strives for dividing up and assigning tasks to different entities.

Primary goods should be distributed fairly. In a well-ordered society, the distribution of these goods by the state entity is a central part of political responsibility. Hence, there is an attached political responsibility to support the basic structure of society. When developing the principles of justice, the political virtues of citizens must also be considered. Without the development of political virtues, the principles of justice alone will not be enough to sustain the perpetuity of the basic structure of a well-ordered society (PL, p. 207-208). The political conception expresses ways in which a political society itself can be an intrinsic good for citizens both as individuals and as a collective body. In order to achieve justice as fairness, the following steps must be considered: a) a political conception supported by an overlapping consensus and, b) strengthening of the account on how a *modus vivendi* with the content of a liberal conception of justice might gradually develop over time into an overlapping consensus. Each step strengthens the stability of the political conception of justice.

3.2 Ground of justice

Rawls' difference principle plays a central role in his theory. Social and economic equalities can only be justified if acceptable under the difference principle (Altham, 1973). The difference principle may accept that a medical doctor earns more than others if in her or his professional role (s)he is serving the needs of others, thus benefitting the least advantaged in society. However, the extent to which Rawls' theory, and in particular the difference principle, is egalitarian has been debated. Several scholars label Rawls' theories of justice as egalitarian (Hunt, 2010). Rawls' difference principle is egalitarian at least in some sense; it can be argued that it is an egalitarian one with a requirement that the least advantaged members are properly respected. The difference principle emphasizes the responsibility of the better-off individuals to do more to the advantage of the worst off.

One view of Rawls' egalitarianism is democratic equality. Norman Daniels (2003, p. 241) understands Rawls' theory as a complex form of egalitarianism for the reason that it provides justifications of democratic equality. Equality is at the starting point of responsibility, but it also allows inequalities that stem from natural contingencies of pure luck such as individual talents and social accidents. In parallel to this, the principles of justice indicate a strong commitment to

distribution, in that they guarantee citizens with equal basic liberties and restrict inequalities that will be maximally disadvantageous to the worst-off groups. Hence, the task of liberal egalitarians is to integrate the principles of justice by equalizing opportunities and protecting human capabilities. Nagel (2003, p. 81) also offers an expansive interpretation of the difference principle. Here, there is a broad design for a system of collective responsibility that eliminates unacceptable inequalities resulting from the sum of individual choices. Collective responsibility happens as the roles of the state, law, and conventions of property can have an extraordinary influence on the accumulation of wealth. Nagel's interpretation further elucidates an institutional aspect of responsibility that pertains specifically to the moral goals of policies and legislative actions of the government in managing the migration of nurses. Therefore, liberal governments should formulate migration policies that contain the egalitarian objective of distributing public health goods in favor of those severely affected by the limited availability of health professionals. In a related manner, the principle on DoA addresses the issue of the responsibility for global injustice. Rawls prescribes how a well-ordered society should help to reduce unfavorable conditions that are pervasive among burdened societies. DoA is not a one-way street, but arises from its commitment to uphold the principles of human rights within the cooperative arrangement. International conventions on promoting, protecting, and preserving basic human rights reinforce a certain degree of accountability among peoples.

3.3 Scope of justice

The geopolitical reach of responsibility is another aspect of Rawls' work that has been debated. One of the reasons for controversy is Rawls' focus on the fair distribution of shares. The difference principle is initially applied in a self-contained society, but in *The Law of Peoples*, Rawls extends this political construction of justice. A liberal foreign policy is developed to guide the ideal relationship of free and democratic peoples. In what he imagines as a representative society, the principles of justice regulate the basic structure of its cooperative mechanism with the larger well-ordered societies. Although Rawls rejects the a cosmopolitan view of justice, he instead believes that the transnational institutional arrangements are to be designed through agreements negotiated among liberal and decent societies (ToJ, p. 37; LoP, p. 2-3). The scope of international justice shares the conditions to be met in the domestic theory of justice, but has two main parts (LoP, p. 4-5). The first is an account of justice appropriate to liberal democratic societies, that is, principles for a perfect just regime that can "*come out and be made stable under the circumstances of justice*" (JAF, p. 13). The second part of the ideal

theory extends the same ideas to the international community *via* a similar original position model. In this original position, the contractors have the roles of representatives of societies of peoples. The international conception of justice adheres to *The Law of Peoples*, which embodies the basic principles on the conduct of well-ordered societies, which extends the scope of their responsibility to a larger cooperative society of peoples.

The cooperative society is designed by the well-ordered peoples, as the global original position excludes burdened, outlaw, and benevolent societies from the agreements of the laws of peoples, including the DoA. It effectively excludes these parties from participating in the Society of Peoples. In the real-world, this exhibits a large part of the human rights-based structure of the European Union rather than the catch-all membership of the United Nations with a loosely structured mechanism for adoption, implementation, and monitoring of rules-based policies. Another close approximation to this description is the Organization for Economic Cooperation and Development (OECD), which is an umbrella organization of high-income countries to promote policies and good practices intended to promote democracy and the market economy. The OECD is involved in publishing rules, agreements, and standards that countries may follow as a norm in international cooperation. Multilateral organizations emerge from the generalized rule for global governance through constant interaction within the deliberative process of international institutions. Multilateral cooperation focuses on the sovereignty and legitimacy of countries in working through shared global issues. In particular, multilateralism centers on major domains of international politics – security, welfare, and the system of rule.

Attempts are made at various levels and in a different form. There is executive multilateralism, which is a progenitor of multilateral thinking and remains an important traditional form of multilayered global governance (Rittberger, 2008). Another form is the open and inclusive multilateralism, which is a normative system created to encourage civil society participation and other non-state actors that results in higher compliance of rules as opposed to only state-sanctioned rules (MacKenzie, 2012; Cooper and Hocking, 2000; Forman and Segaar, 2006). Lately, the rise of regionalism as a multilateral platform primarily for economic integration has taken place in the European Union and gradually progressed in other strategic regional cooperation areas, including the Association of Southeast Asian Countries, African Union, and the Organization of American States. Whether the objectives are seeking political, economic, or security, there is a strong reason to believe that multilateral actions in the form of treaties, conventions, and international law have shaped the way country-governments have approached transboundary issues, particularly in establishing and maintaining democratic norms in international politics (Christiansen, 2017).

3.4 Political responsibility in noncompliance theory

In most of his writings, Rawls describes the conditions of responsibility within an ideal basic structure of society. Once the ideal theory is conceived, Rawls believes that we can start to think of what political responsibility entails in a non-ideal situation. Also, Rawls believes that the current conditions of the world should not determine the ideal conception of the Society of Peoples, but these conditions do affect the specific answers to questions of ideal theory (LoP, p. 90). Without the ideal theory, the non-ideal theory lacks an objective, by reference to which its queries can be answered. Stemplowska (2008, p. 339) argues that political theorists have already made extensive use of ideal theory while neglecting non-ideal theory. To her, ideal theory offers the possibility of seeing the principles and problems more clearly that:

“.... ensures that even when we are not motivated to do what we are required of us we are not thereby let off the hook, and it allows us to uncover more of what we value and should therefore pursue.”

The responsibility to maintain the stability of the basic structure should be strengthened in a non-ideal situation. This should be done on the same basis of the political conception of justice. This correlates with Brock's emphasis on the interconnectedness between the obligations of citizens and institutions of justice that Rawls was imagining (Brock and Blake, 2014, p. 24). To Simmons (2010), there are six ways in which ideal theory can provide guidance of exercising political responsibility to non-ideal situations. For the reason that there are two types of noncompliance (partial and full noncompliance) that are due to (1) socio-historical contingencies, (2) natural limitations, and the (3) deliberate rejection of the principles of justice, non-ideal theory can be applied to different levels. The first type of noncompliance refers to the deliberate actions of those individuals (a) who have done moral wrongs and crimes, and (b) unfortunate noncompliance like insanity and immaturity. The second type of noncompliance is found in the domestic basic structure. First, Simmons (2012) explains that the public officials who are part of the basic structure are noncompliant because of their deliberate contribution to the existence of institutional injustice and civil disobedience in a society. Second, the presence of perennial poverty is considered as an unfortunate compliance that limits the government in fulfilling its responsibility to deliver basic social services. The third type of noncompliance manifests at the international level that also comes in two forms. First, outlaw states are considered noncompliant if their regime has a political culture of waging war or acting with

aggression against other societies. Second, noncompliance in burdened societies occurs when social conditions for adhering to the principles of justice are severely affected by the socio-historical background or geographic limitations. In the case of the Philippine health workforce crisis, public officials cannot effectively run a functioning government because of social conditions that are not connected to outright rejections of the principles of justice. In such cases of noncompliance among burdened societies, the unfair social, economic, and geographic conditions deprive public offices of the ability to execute fair distribution of resources. This is the type of noncompliance being explored in the study to determine what conditions are to be fulfilled in carrying out political responsibility in the case of the Philippines.

Well-ordered societies have a political responsibility to fulfill in non-ideal situations. First, there is a long-term goal of making the outlaw states aggregate decent members of the Society of Peoples. Second, in Rawls' list of principles for *The Law of Peoples*, the DoA assigns responsibility to liberal societies to assist burdened societies' transition toward liberal ideals. These burdened societies lack the political and cultural traditions, human capital, and know-how, and often the material and technological resources needed to be well-ordered. Unlike the outlaw states, burdened societies are not expansive or aggressive, and so well-ordered peoples have to fully comply with their duty to assist the burdened societies. Rawls believes that well-ordered societies should assist only if there is an absolute deprivation in burdened societies. As explained earlier, it is not about simple transfers of wealth, but the assistance will depend on the degree of willingness to reach the threshold of a well-ordered society. Rawls explains that the principle of DoA does not follow the domestic principle of distributive justice, which aims to regulate economic and social inequalities in a self-contained liberal society. Most such principles do not have a defined goal, aim, or cut-off point beyond which aid may cease (LoP, p. 89). Thus, there is a strong reason to use the non-ideal theory of justice in order to find morally permissible and politically realistic migration policies, but with constant reference to his ideal theory.

A DoA is a principle presented in *The Law of Peoples*. Although Rawls writes about the conduct of countries. In *A Theory of Justice* (2005, p. 377), the DoA was not given substantial attention because the latter dwells on an ideal theory of a domestic basic structure. The following explanation is given:

“Let us assume that we have already derived the principles of justice as these apply to societies as units and the basic structure. Imagine also that the various principles of natural duty and of obligation that apply to

individuals have been adopted. Thus the persons in the original position have agreed to the principles of rights as these apply to their society and themselves as members of it... Moreover, the legal order itself presumably recognizes in the form of treaties the validity of at least some of these principles of the law of the countries... The initial point of justification cites political principles that can be accounted for by the contract doctrine. The theory of justice can be developed.”

After several revisions, the DoA appears in the final version of *The Law of Peoples*. The principle then is part of non-ideal theory. Well-ordered societies may be obligated to assist the burdened societies. Rawls argues that the societies of peoples must be governed by a set of principles that are politically conceived, which means these must be reasonably agreed on by the representatives of the peoples. The theory of justice focuses on the principles of justice as fairness that regulates the domestic basic structure with the aim of distributing goods in favor of the disadvantaged. Similarly, a BLA is a contract between origin and destination countries. It satisfies the demands of domestic justice before it can be adopted as a justifiable foreign policy tool for labor mobility. Based on the principle of reciprocity being observed in the international community, member countries are expected to honor the BLA once it becomes a country's domestic policy measure for foreign policy on migration governance. Rawls explains that reciprocity drives peoples to protect their political independence and their free culture, civil liberties included, in order to guarantee the security, territory, and the well-being of their citizens (LoP, p. 34).

The use of non-ideal theory is a particularly interesting objective of relevance to the reformation of BLAs for nurses. However, the process of transitioning is not well-defined in Rawls' work, which he states as follows: *“For these are questions of transition, of how to work from a world containing outlaw states and societies suffering from unfavorable conditions to the world in which all societies come to accept and follow the laws of peoples”* (LoP, p. 89-90). Many scholars have spent considerable work on addressing this gap. For example, Fuller (2012) constructs a non-ideal framework of transitional justice that focuses on eliminating the vectors of injustices. Following this construction, a burdened society can transition to become at least a decent society through implementing morally permissible solutions while avoiding coercive measures for reforms. Burdened societies should be assisted *via* internal reforms of basic institutions. By confining the responsibilities of liberal societies to the political aspect of assistance, aid should stem from collaboration rather than from authoritarian directives. Lastly,

the DoA is premised on the main tenet of liberalism, which is that promoting universal human rights should be embraced by burdened societies without compromising the integrity of their social-cultural identities. Generally, the DoA has a political character that defines the site, ground, and scope of responsibility for justice. With this limited scope, Rawls is consistent with his primary thesis that the institution is the subject of justice.

In non-ideal theory, a well-ordered society embodies liberal values, and one part of its obligation is to assist burdened societies in transforming into full-fledged liberal societies: *“the long-term goal of well-ordered societies should bring burdened societies, like outlaw societies, into the Society of well-ordered peoples”* (LoP, p. 106). In emphasizing this, Rawls veers away from both older and contemporary versions of social contract theory as he believes that there will be a two-tiered original position, one that first caters to a domestic liberal state, and the next stage for a global original position. DoA can promote justice by scaling up development assistance in burdened societies based on the following justifications.

a. Procedural justice in development assistance

Development assistance is a political responsibility, extended as a duty and not given out of sheer moral kindness. DoA follows a procedural justice that emanates from a contractual situation in the original position, which also connects to the domestic theory of justice and works within the institutional mechanisms in the domestic basic structure. This institutional character of DoA is of relevance for the legitimacy question often used to criticize those who are advocating global distributive justice. Following the global original position, the principle of fairness in the interaction between peoples within a cooperative schema is based on mutual respect, reciprocity, and equality of peoples. The procedural content of DoA also addresses the increasing pessimism regarding the ineffectiveness of development assistance. Aid institutions are required to take responsibility for either good or bad outcomes of any single development assistance. The procedure of carrying out assistance must be consistent with Rawls’ idea of fairness in the domestic contract apparatus. The attached offices in the basic structure govern the transfer of aid. These offices will lessen the chances of implementing disarrayed assistance, as observed in a number of humanitarian organizations, as the procedure in carrying out DoA is spelled out according to the principles of justice.

b. Contextualized operational environment

Unlike the domestic theory of justice, which views the difference principle as a mechanism to regulate the fair distribution of wealth in favor of the disadvantaged, DoA does not aim for the same thing, but assists in concrete problems. DoA extends help to burdened societies to minimize, if not equalize, the institutional barriers for the total democratization of its basic structure. Further, the problems of immigration and overpopulation seen among burdened societies are both examples of security issues that may pose an inimical threat to the stability of well-ordered societies. DoA can be carried out to suppress the spread of these threats, either real or imagined, to the well-ordered societies. The principle of DoA can be used in specific global issues depending on the mix of variables and couple that with specific aims. The aims can be transformative, facilitative, protective, or cooperative. These are modes of assistance that directly address the provision of basic primary goods that are essential for the flourishing of liberal values in burdened societies. The task of carrying out the duty appears to be in parallel to the three guidelines that Rawls proposed in extending assistance.

c. Three specific guidelines on carrying out DoA

Rawls states that the goal of DoA is to help a burdened society in becoming, at the very least, a decent society. The idea is not that of wealth creation, which follows a resource distribution among members of a liberal society. Rawls provides three guidelines in order to how to extend DoA to burdened societies marred with bad political leadership. The first guideline carries a transformative objective, although limited to creating a political culture that takes in liberal values. This transformative goal can be interpreted as transitory for institution-building aimed at changing the political culture. Following Maffettone (2017), DoA is expressed as a duty of advice to support institution-building among burdened societies.

“The aim is to realize and preserve just (or decent) institutions, and not simply to increase, much less to maximize indefinitely, the average level of wealth, or the wealth of any society, or any particular class in society (LoP, p. 107).”

The second guideline requires that assistance eliminates human rights abuses. DoA is an instrument intended to promote the human rights-based doctrine for the development on the political culture of the burdened societies. It can also protect human rights as it stands to guard against threats, violations, or outright disregard of public policies.

“If most hunger and poverty are examples of political abuses, then economic aid could not alleviate the suffering, and claims to the contrary must be excuses. Thus, if material aid is needed, the well-ordered can impose political conditions on it, since political change directly affects material well-being, not the reverse (LoP, p. 85).”

Humanitarian intervention is also a form of carrying out DoA to burdened societies in catastrophic events such as disasters and armed conflict, and even those in dire circumstances that may be a result of poor political decisions, for the reason that it protects and preserves human rights of peoples. The last guideline relates to the specific time-bound obligation and a cut-off point of assistance to burdened societies. In this way, DoA appears to be feasible in terms of application as it delimits responsibility for aid transfer from affluent countries over a given period.

“The third guideline for carrying out the duty of assistance is that its aim is to help burdened societies to be able to manage their own affairs reasonably and rationally and eventually to become members of the Society of well-ordered Peoples. This defines the "target" of assistance. After it is achieved, further assistance is not required, even though the now well-ordered society may still be relatively poor. Thus the well-ordered societies giving assistance must not act paternalistically, but in measured ways that do not conflict with the final aim of assistance: freedom and equality for the formerly burdened societies” (LoP, p. 111).

There are two important aims in applying non-ideal theory to BLAs. First, Rawls provides the principles of justice as the structure for procedural justice as a basis for negotiations. Through this process mutually agreeable terms for restrictions or non-restrictions on bilateral agreements will be reached. In non-ideal theory the main principles of justice guide the transition of an unfair background condition found in the migration of nurses in the Philippines to fair migration policies. As such it is suitable to tackle the unfair background conditions associated with the emigration of Filipino nurses and can serve as a tool to identify more fair migration policies. Here, reflective inquiry is used to merge normative theorizing and empirical studies to reform the use of BLAs for the migration of nurses.

Second, in order to move forward with assigning political responsibility and improving migration policies for global nurses, the non-ideal theory of transitioning is used. This theory links the individual's moral power with a shared responsibility to eliminate structural injustice. According to Hendrix (2013), the process of non-ideal theorizing requires a deeper understanding of the concept of power, which is central to the transitional nature of the Rawlsian theory of justice. Power is something that is exercised among political institutions. In this case, the concept of power must be better understood in order to assign political responsibility. Following Rawls' two innate moral powers, individuals are capable of pursuing justice since it is inherently attached to their liberties. These moral powers can be enhanced if deliberative processes for justice are in place, even in a non-ideal situation. If citizens in a burdened society are engaged in the political construction of justice, it allows them to recognize those injustices. It becomes imperative for them to take shared political responsibility for the creation institutions to look after those affected by this unfair background condition. This brings us back to the Rawlsian difference principle in ideal theory, which connects the concept of political responsibility to the agencies who are the duty-bearers in regulating social inequities. However, in non-ideal theory, the DoA is invoked in reforming the migration policies in a burdened society. To this effect, the primary importance of political responsibility is that of confronting the unfair background situation of migrant nurses. At the end of this chapter two major proposals are presented on how to ascribe substantive political responsibility to rectify structural injustice found in the migration of Filipino nurses. Before doing that, a brief historical background of the Philippines' political history is provided to help in applying Rawls' non-ideal theory.

3.5 Liberalism in the Philippines as a case study

Politically unstable democracies often lack foundational principles of justice, which makes its basic institutions weak and inefficient to deliver basic services to its citizens. The ideal theory of justice aids in understanding and rectifying the illiberal conception of constitutional government in history. In stressing this point, this section presents an analysis of the political narratives contained in the deliberations of the constitution, state laws, and regulations, which helps the reader to appreciate the earlier trajectory of Philippine democracy and its efforts of building a liberal society. As the main case study of this dissertation, the description of the Philippines as a burdened society in a non-ideal situation is narrated. These texts illuminate an intensive deliberation of civil liberties under the constitutional framework and the

approximations of the Rawlsian political construction of justice. These are features of a democratic process in the construction of justice that runs in parallel to the main principles of liberty, equality, and equity.

Principles of freedom and equality in Philippines' political history

Early Filipino revolutionaries are the leading purveyors of liberal ideas. Emilio Jacinto's *Kartilla* is said to be the first chapter of the revolutionary government that recognizes the right of representation (Regala, 1931). But Apolinario Mabini's Decalogue (1898; 2005) is more liberal in his political belief based on his first draft of the Philippine Malolos Constitution, which states:

"Thou shalt strive for a Republic and never for a monarchy in thy country: for the latter exalts one or several families and founds a dynasty; the former makes a people noble and worthy through reason, great through liberty, and prosperous and brilliant through labor."

Later, the preamble of the Malolos Constitution reflects Mabini's political philosophy, which opens with the following statement:

"We, the Representatives of the Filipino People, lawfully, convened in order to establish justice, provide common defense, promote the general welfare and insure the benefits of liberty, imploring the aid of the Sovereign Legislator of the Universe for the attainment of these ends, have voted, decreed, and sanctioned the following political constitution."

Organized as a sovereign republic, the Malolos Constitution acknowledges the national and individual rights along with substantial provisions in the Bill of Rights. The revolution succeeds in fomenting nationalist ideals, but the liberal dream was nipped in the bud by the invasion of American forces. After decades of asserting independence, the liberal project finally took another spin under an American-sponsored 1935 Philippine Commonwealth Constitution. Albeit being little more than a copycat version of the US Constitution, it was a pivotal document for a peaceful transition toward an autonomous commonwealth government wherein the liberal ideas strengthened the base of its democratic foundation.

“The Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody their ideals, conserve and develop the patrimony of the nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a regime of justice, liberty, and democracy, do ordain and promulgate this Constitution.”

The preparations for the transition of power were interrupted by the Japanese occupation. Ravaged by the war, the Philippines was nevertheless the first democratic country in Asia to regain its independence and, in 1946, also became a founding member of the United Nations. However, the rise of the oligarchy in a period of weak liberal institutions effectively fueled the Lenin-Maoist-inspired insurgency among agrarian peasants (Magno and Gregor, 1985). A dictatorial regime was established, and the subsequent 1975 New Society Constitution was the first constitutional framework being undertaken without the influence of a foreign power. Paradoxically, in the time of widespread human rights violations, liberal ideas were never abandoned and even expanded in scope under the recast preamble:

“We, the sovereign Filipino people, imploring the aid of Divine Providence, in order to establish a government that shall embody our ideals, promote the general welfare, conserve and develop the patrimony of our Nation, and secure to ourselves and our posterity the blessings of democracy under a regime of justice, peace, liberty, and equality, do ordain and promulgate this Constitution.”

Despite the setback, liberal ideals helped constitutional framers through the restoration of democracy. The Philippine Constitutional Commission took a more progressive stand in the 1987 Freedom Constitution by articulating the equity principle during their lengthy debate about advancing social justice. The 1987 Philippine Freedom Constitution is nothing short in emphasizing that:

“We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society and establish a Government that shall embody our ideals and aspirations, promote the common good, conserve and develop our patrimony, and secure to ourselves and our

posterity the blessings of independence and democracy under the rule of law and a regime of truth, justice, freedom, love, equality, and peace, do ordain and promulgate this Constitution.”

In the theoretical description of Rawls, political liberalism largely rests on the procedural process within the constitutional framework, which substantively qualifies the Philippines society as having a continuing liberal ambition. Attesting to this is the repeated enunciation of equal liberty provision as the main lexical construction of the Philippine constitutions ever since. And to complete the procedural justice, a system for distribution of shares follows to ensure fair equality of opportunity for all.

A weak liberal apparatus in a burdened state

Liberal democracy has a long and deep-seated history in the Philippine socio-political life. Changes in the constitutional framework has been made no less than five times. The liberal ambition never faded from the consciousness of its supposedly free and equal people. Claudio (2017) argues that liberal thought is entrenched in the grammar of Filipino democracy in the building of a new nation as enunciated by earlier Filipino scholar-bureaucrats. Liberal ideas of these scholars appear in the various areas of Filipinized pedagogy, international affairs, economics, and literature. In spite of the explicit enunciation of these principles, more questions are often asked, as the pervasive democracy deficits are observable. Reconstructing the narratives is instructive and helps us understand the illiberal conception of the principle of justice. Hutchcroft and Rocamora (2003) argue that the democracy deficit – or simply the inability to deliver goods of public character – being experienced in the Philippines is due to the infirmities of designing the earlier days of colonial democratic institutions. Nevertheless, the liberal principles of freedom and equality still appear to be the moral force that has held its citizens together through the generations, and all for the fulfillment of the long-desired liberal society.

To Claudio (2017), the first breakthrough of liberalism in the Philippines carries a revolutionary tone but only for the exclusive circle of the rich intellectual elite. European-educated members of the Philippine independence movement, or what are collectively called *ilustrados*, were inspired by the principles of the Enlightenment period, based on idea of justice, equality, and good government (Arcilla, 1991). One particular event that contributed to the growth of liberal democracy as a political thought was the rising pressure for the secularization

of government bureaucracy. Filipino revolutionaries wanted to take the public decision process away from the strong influence of the Catholic Church. The assimilation campaign also triggered the reform campaign for equal treatment between Spaniards and Filipinos in the Philippines. Among the suggested reforms are the provision of public education, basic social services, and the opportunity to work in public service.

After the pacification campaign, limited political freedom was granted in exchange for bowing to American benevolence and tutelage (Ileto, 2017). Main liberal principles of liberty and equality were overridden by the tenets of benevolence and friendship as the military campaigners found them as the easiest route to democratization in the Orient. During this period, the migration of farm laborers to California and Hawaii was recorded in unprecedented numbers. According to Lasker (1969, p. 181), this process established the economic class-based divide as the primary influence of migration. In his report, landed aristocracy raised their objection to the continuing immigration of farm laborers to the United States as it would affect the availability of labor to till the land intended for large-scale production of coconut and sugar. The political leaders also expressed their nationalist views that the economic development of the Philippines largely depended on the availability of Filipino labor. Conversely, emigrants were in favor of continuing open migration flow to the United States for the simple reason of their desire for freedom of movement (Lasker, p. 274). Underlying these personal motivations, however, was the untenable economic hardship created primarily by the limited landholding opportunities and the lack of homestead facilities such as irrigation and modern farming technology, which was the driving force for leaving the country.

Hutchcroft and Rocamora (2003) observe that there was a systematic exclusion of the masses in the process during the emergence of the elite-controlled and patronage-oriented representative system. To them, the Philippines has a strong demand for liberties but weak institutions, and is just a manifestation of patronage-based politics. The postcolonial period did not entail a fully-grown liberal status. It carried over the illiberal conception of justice and reproduced inequities.

Anderson (1988) points to the formation of cacique democracy, or the rise of local political elites, in the Philippines. Fragmentations of democratic institutions create a highly regionalized administrative public system of government in the provinces. Intertwined with it is the role of kinship in transforming rent-seeking politics. McCoy (1994) sees the influential role of the political rise of family-based rent-seeking bureaucracy in the Philippine government that has formed an income base that favors the rich. At the national scale, Bello *et al* (2004) argue a theory of economic elite democracy that led to an anti-development state in the Philippines. The

growth of liberalism stagnates with the neoliberal interests of politicians, business organizations, and academic circles. More often than not, labor market governance in the Philippines is strongly tied to the influence of the ruling elite (Oh, 2016). In the current regime of labor export strategy, the strategic purpose of BLAs recreates the Philippine foreign policy that now stands on the pillars of commerce and trade, political engagement, and the welfare of Filipino overseas workers (Philippine Foreign Service Act of 1991).

Liberalism has an historical grounding in the development of the Philippines' political landscape. However, the institutional barriers make it a failed experiment, and its adverse effects are evidently reflected in its migration policies. In conclusion, a stronger case of political responsibility is needed, and one that is in accordance with the principles of justice. This can be applied in reforming migration policies for Filipino nurses.

4. SHARED POLITICAL RESPONSIBILITY IN REFORMING MIGRATION POLICIES

The liberal principles of justice are corrective in their objectives as long as they are applied within the apparatus of democratic deliberative institutions. In parallel to this, a normative framework is presented that can be used to assess the ethical implications of the migration of nurses and to address the current situation from the perspective of justice. The caveat, however, is to take the normative theory of justice that is feasible within a liberal society but may not be robust in a non-liberal state. Even as a burdened society, just institutions must act reasonably in adopting a program for deploying nurses through contract labor migration.

Taking off from the liberal tradition of Rawls' political liberalism, and then expounding on the site, ground, and scope of political responsibility in non-ideal theory, this now provides a platform for going deeper into the institutional aspect of pursuing justice regarding the migration of Filipino nurses. Relatedly, in the process of taking political responsibility to the fore, embarking for fair terms of a BLA according to the perspective of justice can be divided into two parts. The first suggests that a BLA must meet a standard that focuses on the principles of liberty, equality, and equity. These values should all be afforded to individual nurses. Accordingly, the second part deals with the DoA as an element of sharing political responsibility among state actors from both origin and destination countries. This is central to the discussion of managing the impact of the health workforce crises due to the global mobility of nurses.

4.1 Principles of justice in fair ethical recruitment for nurses

The first aim is to substantiate the principle of justice in the ethical recruitment standards regarding overseas nurse deployment. A closer examination of the political construction of the structure of BLAs is essential as it aims to reform institutions that regulate economic inequities in favor of those who are at a greater disadvantage. BLAs facilitate temporary overseas work of Filipino nurses. However, such agreements create various ethical debates regarding the extent of the government's role in overseas deployment. At first glance, the first principle of liberty is not grossly violated in the case of contract labor migration of nurses because the Philippine government did not use coercive power to restrict freedom of movement. Moreover, the use of the contractual instrument appears to be a reasonable policy for migration governance. In fact, the Philippines has a high score on the Migration Governance Index owing to its well-developed policy and institutional architecture for managing migration (Economist Intelligence Unit, 2016). However, the problem arises when the protection of these liberties is unwarranted once healthcare professionals have left the Philippines' borders. In the case of emigration to undemocratic regimes, migrant nurses are vulnerable to workplace abuse in which the principle of equal liberty is either applied only to citizens of the destination country or, in the worst case, not recognized at all. This area of justice must be improved through reforms that reinforce fairer terms for BLAs. In this process, these institutions are morally obliged to put in place social safeguard mechanisms – either policies or programs that will address the unfair treatment of nurses and its unfavorable effects in the health workforce crisis.

On this note, Chapter 4 is dedicated to discussing in depth the first case of political responsibility, which puts the BLA for nurses as the subject of justice. BLAs should function at two levels. First, at the domestic level the BLA should act as a national policy for protecting a wide range of human rights of its citizens who are working abroad. In contrast to the current practice, it should not be another facilitation mechanism for contract labor migration. The BLA should reflect strict compliance with the principles of justice. As such, the final agreement must satisfy the most important components of equal liberty, fair equality of opportunity, and the difference principle. At the minimum, the BLA should promote the welfare of all occupations and put a greater emphasis on uplifting the lives of the population left behind. Second, as a foreign policy framework the BLA works as a binding agreement that ensures mutual respect of equality and independence of nations. On this basis, it promotes a regime of human rights that protect the dignity of healthcare workers and responds to the challenges of global healthcare needs. Equal liberty in foreign policy undertakings comes in the form of mutual recognition

between contracting governments on the individual's status, rights, benefits, and all other areas related to fair employment. The relational structures and processes operate within the cooperative schemes among representative societies, and by no means adhere to the political conception of justice. The concrete terms and conditions stemming from the negotiation should be in consonance with fulfilling the principles of justice.

A number of multilateral actions are used to provide guidance for negotiating BLAs. The WHO Code of Practice is a product of a multilateral process that provides a normative framework for managing the migration of health professionals (Campbell *et al* 2016). Another complementary policy action is the endorsement of the World Health Assembly on the Global Strategy for Human Resources on Health. It gains influence in shaping the global agenda of policymaking for a sustainable health workforce (WHO, 2018). If there is policy coherence in all international labor conventions, labor mobility is seen as a major pillar in economic development, as trade and services are becoming more integrated globally (Popova and Panzica, 2017). The rising demand for migrant labor ushers in the shift in migration policy and intensifies the campaign for safeguards and protection from the vulnerability of migrant workers (Agunias, 2008). The Triple Win Project encourages a tripartite approach to labor migration, and just recently, the 2019 Global Compact on Safe and Orderly Migration is adopted by country-governments to elevate the global commitment to the protection of the rights of labor migrants. More importantly, the United Nations' Sustainable Development Goals 2030 joined together all these multilateral actions, making health, labor, and migration issues more interconnected.

4.2 Duty of Assistance

The principles for negotiating a BLA with another country must emanate from the basic structure of a liberal society. The second aim of shared political responsibility concerns with the accountability on both governments in the origin and destinations countries, which have a public interest in alleviating health inequities. Destination countries typically gain the most from the structure of injustices. By absorbing the surplus of healthcare workers from burdened societies, they manage to secure their need for qualified health professionals. Origin countries need to take firm political action to ensure the healthcare needs of the population being left behind. In the global public health parlance, the perpetuating challenge has been to undo structural violence that excludes people's access to healthcare and produces social suffering in the developing world. Better design of programs and guidance to address global health challenges can be achieved only if we take into consideration the relationships concerning social

actions. According to Van (2009), public health effects of nurse migration will continue to challenge policymakers from both the origin and the destination countries. In order for a global strategy of human resources for health to finally take shape, public health effects of both the origin and destination countries must be considered by contracting governments to ensure that high-quality patient care will be preserved when nurses migrate across borders. By focusing on migration policies primarily on the origin and destination countries' domestic development, only then can we come closer to solving the perennial global nursing shortage crisis. Global health policies should promote health equity and favor the worst-off population by invoking the principle of DoA as part of negotiating BLAs. The adoption of an asset-based DoA in order to realize equitable global health workforce planning is also suggested, which will be further developed in Chapter 6.

The process of moral justification requires shared political responsibility. Both origin and destination countries should be committed to reform the present migration structure for nurses by implementing fairness in the ethical recruitment practices, as well as carrying out the DoA to mitigate the adverse effects of brain drain as a consequence of facilitating the mobility of nurses.

Chapter Four

Bilateral Labor Agreement as the Subject of Justice

In this chapter, the description of the current practice of BLAs, and its ethical implications, are presented and analyzed. First, the Filipino nurse diaspora is described. Here, the historical development of migration of Filipino nurses from the colonial period to the current systemic global export of nurses through BLAs is covered. Second, the ethical implications of nurse migration and the practice of BLAs are presented. For this purpose, an analysis of the BLAs that the Philippine government has reached since 1976 is made. Of the total 15 BLAs that the Philippine Government has signed and that are related to the deployment of healthcare professionals, I focus on two: (1) the Japan-Philippines Economic Partnership Agreement and, (2) the Germany-Philippines Triple Win Project.

1. STRUCTURES OF MIGRATION THROUGH THE YEARS

Global nurse migration is a complex phenomenon and it has vital importance to disclose forces that contribute to the present inequities in health. Thus, systems, policies, and power are described that characterize international politics. Three key components of migration research are highlighted. First, healthcare work migration is tied to both market and non-market forces that are entrenched in the global care commodity chain (Yeates, 2009). Developing countries are generally assumed to be the origins of trained care workers and developed countries are the end destination. This study follows this pattern. And an attempt is made to describe both the sides of origin and destination parties in relation to Philippine nurse migration. Such descriptions should be sensitive to identify the actors and the social transformation process pointed out by Castles (2012), as well as to the broader process of globalization. Castles stresses that the analysis should cover different spatial levels: regional, national, and local. Furthermore, he stresses that cultural values, religious beliefs, institutions, and social structures shape the effects of external forces. These particular features give rise to different forms of change and resistance in different communities. Second, the current migration flow is, at least in part, shaped by history. Thus, in the case of the Philippines, paying attention as to how the colonial past has shaped the current outflux of nurses is important. Third, Aguilar (2002, p. ix) argues that migrants should be

persons with agency and subjectivity who are able to navigate through and negotiate structural forces. Migrants are not mere passive objects but participants that restructure the migration policies over time. Castles (2012, p. 7) shows the need for holistic and interdisciplinary approach that link particular individual experiences of migration to broader studies of the transformation of whole societies.

The migration of nurses in the Philippines is viewed from three theoretical perspectives: (1) demographic theory, (2) equilibrium theory in economics, and (3) the core-periphery relationship model in political science (Ball, 1991). The first is concerned with push and pull factors that influence the decisions of individual migrants. However, a focus on individual rationales only obscures the influence of structures and relationships between origin and destination nations. The equilibrium theory sees exchange between countries as dictated primarily by financial income and the supply and demand for labor. Emigration is an immediate effect of a disequilibrium. The drawback of this perspective is that subjective experiences, motives, and interests are excluded. According to the core-periphery relationship model, the international system is an unfair reflection between the core and interdependent states. The international order is characterized by an imbalance of power relationships that causes emigration from peripheral to core states. The core, i.e. the most dominant entities in terms of culture, technology, politics, and economics, will likely benefit from the underdevelopment of the peripheral states. However, these three dominant perspectives are challenged by Ball (1991, p. 324), arguing that international migration of nurses is a more complex matter than only a matter of individual choice. Rather, individual migrants, recruiters, the state, and foreign employers are involved. In the same manner, Goss and Lindquist (1995) use the concept of a migrant institution to explain the labor migration pattern of nurses from the Philippines based on Giddens's structuration theory, which illustrates the interaction of human agency with the migration structures. These authors spell out rules and resources that constrain individual action. In their view, individuals act strategically to further their interests, but the capacity for such action depends on the knowledge of rules and access to resources, and may be partially determined by their position within the institutional order.

Here, empirical studies on Filipino nurse migration are used to better understand the conditions that shape nurse migration. In particular, the core-periphery theory on migration is used to explain the historical situatedness of the current moral problem. The push-pull theory highlights the various factors that shape an individual's decision to leave or remain his or her home country and going to their preferred destination. Both agents and structures alike produce and reproduce structures, and if these structures are unjust, injustice will be reproduced. In turn,

the social interaction and system integration is influenced, which affects the future life-chances of all agents within it. The ethical problems described in the introductory chapter are produced and reproduced by the present structure of labor migration of Filipino nurses.

1.1 Migration policies of destination countries

Nail (2015, p. 15) claims that a migrant is not a static figure, but both a political and historical conception. He explains that a migrant is political in relation to the social conditions or regimes of motion within which different types of migratory figures emerge and coexist. A careful reading on the narratives of Filipino nurses provides an understanding of the many features that contribute to large-scale health worker emigration. The narratives here may not wholly capture and represent the migrant Filipino nurses over a century, but can reflect the creation of the so-called intergenerational culture of migration. That is, the migration of nurses does not occur at one single point in time. Rather, it, is a continuous process of the mobility of one generation after the other in which the experiences of the earlier generations influence later generations.

In addition to these narratives, policy discourses that shape these personal experiences are presented. It is important to stress that the aim of exposing these narratives is not yet another accumulation of lived experiences, which can tell stories of themselves, but to show how the interaction of human subjectivity with policies can raise problematic ethical concerns. There is a consensus among scholars that the nursing migration pattern is closely entrenched in the colonial history shared between the origin and destination countries (Choy, 2003; Jurado, 2013). Here, historical documents are studied in light of colonial policies. In this way, the formation of a collective attitude of nurses is disclosed. By making the colonial legacies of Filipino migration and the historical conception of the structure of labor contract migration visible, some of the causes of present ethical concerns are revealed.

San Juan De Dios Hospital was established as a nursing and healthcare institution by the Franciscan friars in 1578 (McDill, 1905), and with that, the Spanish regime introduced western medicine to the Filipino people. The short-lived transition to liberal reformation in Spain has a bearing on the social reforms introduced by its colonial government in the Philippines. During this period, formal medical education was introduced in 1861 at The Royal and Pontifical University of St. Thomas (McDill, 1905, Luengo, 1982). This institution produced domestic health professionals who would cater to the health services demands of the local population and support the gradual transition to liberal democratization.

However, the birth of the Philippine public health system started first with the installation of a military government by the United States of America in 1898. This was a conscious strategy of economic expansion (Lancet, 1904; Lancet, 1910). Hence, the first generation of Filipino global nurses is a product of colonialization. Following America's principle of benevolent assimilation of their colonial territories, the nursing profession became the medium of westernizing their colonial subjects. For these reasons, the impression of emigrating colonial subjects was positive.

"An important outcome of America's entrance into the field of tropical sanitation is the reflex stimulus which has been produced in the United States. We are emulating in our own country the wonderful achievements which we ourselves have helped to accomplish in the tropics. But the greatest effect has been to the world at large. The impetus which sanitation in the Orient has received during the past few years has contributed greatly to the well-being of mankind, and America's efforts, which have been made largely through altruistic motives, have added no small share."

Read by Victor G. Heiser for the Rockefeller Foundation, Proceedings of American Philosophical Society, New York, 1918

"Yes, to see America and have the opportunity to further my studies has been my dream ever since I learned of the great country... I made up my mind to take up nursing against the objection of my father."

Patrocinio Montellano, Years That Count, 1912 (in Choy, 2003)

Under the pretext of benevolent assimilation, the Americanization process resulted in liberal democratic ideals in several aspects of Philippine social life. Americans conquered the newfound colony not only with the use of force but with a combined strategy of religious mission, mass education, and public health. Interestingly, colonial medicine was a necessary policy instrument in preparing the colonial subjects for self-government in the future. But it must also be noted that the inability of US forces to withstand the tropical climate and unhygienic environment claimed more than a thousand of casualties among their troops. The Americans lost more soldiers in this way than in combat. This loss prompted them to start water

sanitation, malaria control, and smallpox vaccination initiatives (Heiser, 1918). Later, institutions like the Bureau of Science and the Philippine General Hospital, became America's successful work in tropical medicine in the Orient (Lancet, 1910; Lancet, 1922; Anderson, 2009). However, the gradual shift from military to civilian public health achieved a gradual change in terms of attitudes among the natives who still clung to their old habits of superstitious and mystical health beliefs (McDill, 1905; Chamberlain, 1912; Dunham, 1936;). The institutionalization of a highly professionalized medical field through local recruitment of nurses made these societal changes possible. McCalmont (1909) recounts her optimism of starting up the Civil Hospital and Training School for Filipino nurses with Julia Betts, former Red Cross and Army nurse, and by educators Mary Coleman and Charlotte Layton, who were instrumental in the inception of formalized schooling for a small number of scholars at the Philippine Normal School. These nurse trainees were eventually deployed to new hospitals in support of the establishment of a new civil government that replaced a military administration after running a successful pacification campaign. But her own words seem to be prophetic once seeing how she imagined the nursing profession in the Philippines before in light of the current diaspora of Filipino nurses: *"It is a country of opportunity for nurses and all women with the right spirit.... We want nurses with new ideas, enthusiasm, and enterprise, not the salary-drawing variety, but the world-helping kind."* Choy's pioneering work on the Empire of Care (2003) elicits some explanation in the history of migration of Filipino nurses. To her, the implementation of a westernized system in nursing education – with the use of a strong English language component, use of American textbooks, and a single focus on Western medical knowledge – was decisive for the outflux of nurses in the decades to follow. This established the present-day migration pattern.

The second wave of Filipino migrant nurses coincides with the expansion of corporate-led globalization and the immigration reform in the United States in 1965. By 1908, recruitment agencies sprang up in major Philippine cities, becoming the conduits of American hospitals, to facilitate the deployment of nurses *en masse*, as shown in the quote below:

"Dear Nurse... We have placed over 8,000 nurses to different parts of the world... So if you're not happy wherever you are right now, why not take the easy way out and go someplace else. We can't promise you'll find happiness, but we can help you chase it all over the place. "

Manila Educational Placement Service, Philippine Journal of Nursing, 1965 (in Choy, 2003)

But the migration of nurses split into several paths. Strong attachment to the former colonial government remained and was even stronger to become one of its trusted political and economic allies. In the pioneering study of Bello, Lynch, and Makil (1969) on Filipino brain drain, a majority of Filipino nurses and doctors, who were recipients of the United States Visitor Exchange Program in the 1960s, opted to stay at their destination country and never returned to the Philippines. This is in congruence also with the comparative study of Joyce and Hunt (1982) that tests the level of anchorage and perceived relative opportunities of Filipino nurses. Regardless of socioeconomic background, the findings conclude that those nurses who remain for long periods in the United States receive lower scores of attachment with the Philippines. The narrative below further reveals the formation of colonial mentality among nurses, who perceive that the best place to practice their profession is always in the United States:

“My Philippine nursing classmates saying, “Let’s go to the States,” I, and 25 other Philippine nurses, headed for the same hospital in New York City, all on the same TWA flight not long after graduation from nursing school. Some of the nurses with me on that flight had lived previously in the United States (US) as part of their Exchange Visitor’s Program but had returned to the Philippines after a two-year stint in the US.... My classmates and I actually began our adventure at a recruitment agency in Manila, bringing with us the papers the agency had specified. Can you picture this “herd” of ladies coming through the doors of the agency? In no time at all, I was on my way. There were no hitches or glitches in terms of the application and no delays. There was no pressure from parents or economic need to migrate at that time in the 1970s. We simply wanted to do so.”

Rosario-May P. Mayor (2008), RN, BSN, MA, President of the Philippine Nurses Association of America.

Brush (2010) discusses the dependency of United States on migrant nurses resulting in the reversal of priorities of the health workforce in the Philippines following the period of imperial nursing. From being purposely driven to meet domestic public health needs, the local production of nurses became an effective mechanism for preparing the workforce needs of the US. The American benevolent assimilation agenda, US-based public instruction, and, nursing education

and practice perpetuated American dependence of Americans on Filipino nurses for decades to follow (Jurado, 2013). Migration policies are filled with capitalist interests that have imposed a structure upon the geographic movements of people and workers. Government policies significantly influence migration, e.g. when, at a time of nurse shortage, the United States relaxed their immigration laws, which facilitated the entry of Filipino nurses (Jurado, 2013). Although, there was a certain period when the opportunities for working in the United States had narrowed due to visa retrogression immigration policy imposed in the early 2000s (Wasem, 2005). Alongside immigration policies, the regulatory environment for accreditation of qualification complicates the employment and professional status of migrant nurses in the destination countries (Blythe and Bauman, 2012; Inimarga, 2004). The third wave of migration is characterized by a generation of young nurses whose decision to migrate are both shaped and strongly supported by migration policies of the origin country but more by the health needs of a developed destination country.

“Through its various provisions, the Affordable Care Act will insure more than thirty million Americans by January 1, 2014. This dramatic increase in coverage will have significant effects on both the U.S. economy and its healthcare system. Nursing professionals make up a large portion of the U.S. healthcare system and with a dramatic nursing shortage already in place, employers increasingly look abroad to fill nursing vacancies. Due to the increasing effects of globalization, foreign nurses have become an integral part of the U.S. healthcare system. This note argues that the increased coverage created by the Affordable Care Act will increase the demand for nurses, thus requiring greater recruitment and migration of nursing professionals from abroad.”

Helen D. Arnold, Indiana University Maurer School of Law, 2013

MP: How did you decide to study nursing?

Nicole: When I was a little girl, they always say that I must take nursing because the salary is big, and I can go abroad.

MP: Is this your parents or your grandma?

Nicole: All my relatives.

MP: How old were you when they started telling you?

Nicole: When I was in elementary.

MP: Really?

Nicole: Yes, that's why it marked in my mind that I must take nursing.

MP: When they suggested it, what did you think about being a nurse?

Nicole: I don't exactly know, but sometimes I wonder why I take the nursing course.

Nicole, a first-year nursing student (in Prescott, 2016)

Demand for healthcare services is steadily rising as universal health coverage expands in major developed economies. The long-standing labor export policy of the Philippine government further promotes the mass deployment of nurses to countries with growing healthcare demand due to economic booms, such as in Saudi Arabia and the United Arab Emirates in the Middle East and the aging populations of Japan, Germany, and United Kingdom. However, a new regime of migration governance that focuses on a safe and orderly movement of healthcare professionals has emerged. Western European countries, including Belgium, Britain, France, Germany, and the Netherlands, prefer temporary employment while Anglophone-settled societies like Australia, Canada, New Zealand, and the United States request large-scale permanent employment (Dhillon *et al*, 2010). One instrument to reach such contracts is the BLA, which endorses ethical recruitment of international health workers from developing countries. The recently adopted WHO Code of Practice and the gradual transition to a multilateral international system also diversified the destination pathways of nurses.

“...the experience gleaned from the pilot project has made it possible to address the needs of the employers, the nurses, and the countries of origin in a more targeted fashion – a promising situation with advantages for all three sides.”

A quote on the report of GTZ Triple Win Project, 2020

The quote fits the description of Filipino nurses in Philippine migration history. At the individual level the tone of the narratives has been unchanged through time. That is, the freedom of movement is at the crux of health professional mobility.

1.2 Commodification of healthcare workers

An important concern is that nurses are degraded into being cheap commodities for exchange between actors in the healthcare industry, which is composed of the government, educational institutions, review centers, travel agencies, and recruitment agencies. The Philippine government's reluctance to create local opportunities for nurses contributes to their commodification as export products. Following Yumol (2010), the government's inaction exacerbates the exodus of Filipino nurses abroad. The Philippine government strategically markets Filipino nurses as a "national brand" characterized by a caring culture, good command of the English language, and willingness to work extra time to save more money and send to their families (Onuki, 2009). Filipino nurses are marketed as highly educated and tailored-made to the US market (Inamarga, 2009). Masselink and Lee-Sy (2013) depict the government's proactive stance on the export of health workers in several studies. According to them, the incentive is not only to obtain revenue from remittances but also to solve the issue of the overproduction of nurses. Philippine government officials cast Filipino nurses as global rather than domestic providers of healthcare who will share their potential earnings to the country's healthcare system. The Philippine government also protects its branding strategy of Filipino nurses, by only selecting the best nurses from the local pool of talents, to retain its leading status as the nurse-provider in the global care market (Masselink, 2009). In order to maintain the strong national nurse brand, pre-departure seminars are arranged so that emigrating nurses learn how to live up to the image of the ideal migrant (Rodriguez and Schwenken, 2013). A successful branding of nurses strengthens the bargaining position of government negotiators so that they can ask for higher salary scale for nurses. Ford and Kawashima (2016) argue that with the advent of the BLAs, nurses became a tradeable commodity and bargaining chips tied to a broad-based trade agreement (Cortes and Pan, 2015). Goode (2009) observes that as the Philippine government maximizes the economic potential of human resources, it becomes a rational economic transaction between origin and destination countries.

The government-led labor export as a business model paves the way for new markets of Filipino nurses. In the end, working overseas becomes the natural career path for every nursing student. Overseas work is even praised as a form of "modern-day heroism" for keeping the country's economy afloat through the steady supply of remittances (Rodriguez, 2008). Moreover, the reluctance of the Philippine Government authorities to solve the oversupply of nurses is explained by the fact that the private sector dictates the tempo in running the nursing industry. Clearly, educational institutions and recruitment agencies are agents that have

contributed significantly to the establishment of the now well-recognized Filipino nurse brand. Nevertheless, their role is often overlooked in research (Acacio, 2007).

Nursing schools are at the core of the commercial relationships between teaching hospitals, review test centers, recruitment agencies, and travel agencies, which practically perpetuates the culture of migration within the profession (Masselink and Lee-Sy, 2010). Philippine educational institutions intentionally design their nursing curricula to fit into the core skills that a nursing student should acquire to qualify as the ideal global nurse recruit. Employability is emphasized at the expense of professional values and standards of the nursing profession within the country (Ortiga, 2014). An unintended outcome of the nursing education boom is the uncontrolled proliferation of institutions offering a nursing degree. With the rise of enrollment comes a declining quality of instruction, and in effect, most nursing schools are only producing low-quality graduates. This, in turn, is reflected in poor licensing examination performance (Arends-Kuenning *et al*, 2014).

1.3 Bilateral Labor Agreements

Through and through, BLAs are becoming more prominent in governing global trade and services. For the Philippines, these agreements make up an important diplomatic instrument in foreign policy for the reason that offshore earnings from remittances have become the backbone of its economy. A brief overview of the history of labor export shows the Philippine Government's role in developing and structuring BLAs. The earliest forms of contract labor arrangement provide important information for an ethical analysis.

Covering a period of 200 years, Aguilar (2014, p. 26) identifies the *Manilamen* as the earliest group of seafaring Filipino global migrants during the Spanish transpacific galleon trade (1572-1815). Labor recruitment with the galleon trade was governed under the maritime law that imposes order and discipline aboard ship. After its decline, Manila became the center of labor recruitment for the American whaling industry, Australian pearl-shell fishing, and the United States naval forces. In 1915, the Philippine Legislative Assembly passed Act No. 2486¹ that provided the regulatory control for labor contracting between the United States of America and its colonial administration in the Philippines. Decades later, the contract labor regime became the landmark of American colonial administration. Espiritu (2005) talks about the

¹ Known as An Act Fixing a Tax Upon Every Person or Entity in Recruiting or Contracting Laborers in the Philippines.

disruption in the local agricultural labor sector economy in the earlier period of American occupation. She claims that previously viable agricultural regions and textile industry lost its economic potential due to migration opportunities. Instead, these regions turned into hubs for the production, reproduction, and subsequent export of human resources. For example, the Hawaiian Sugar Planters Association recruited farm laborers in the Philippines because of their willingness to migrate as plantation workers to Hawaii. This labor arrangement started the influx of migrants, including nurses, to the United States. Gibson and Graham (1986) also trace the colonial representation of contract labor migration from the strong military connection between the Philippines and the United States, which started during the build-up of US army facilities for the South Korean and Vietnam wars. The relationship continued even thereafter, as the Philippines gained access to the Saudi Arabian market, where American oil and construction companies are well established. The economic boom in the Middle East also meant an influx of Filipino construction workers (Aguilar, 2014 p. 61), and demand for nurses for healthcare also expanded as a result.

The 1974 Philippine Labor Code formalizes the labor export policy of the government. More importantly, the Labor Code seeks to uphold the right of individuals to freely move and work at places of their choices. In the 1982 Annual Report of Overseas Employment Policy Board, the erstwhile Minister of Labor Blas Ople highlights the milestones of the agency as the skeletal force in facilitating recruitment, consolidating remittances, and opening of market development areas (POEA, 1982). In the same report, a total number of 450 nurses were hired by the United Arab Emirates Armed Forces, and the Jordan Armed Forces Royal Medical Services signed a total of 400 nurses for employment. During this time, the massive inflow of foreign remittances cushions the impact of the devaluation of the Philippine peso during the fiscal crisis (Battistella, 1995). Nevertheless, the use of bilateral agreements is to promote the implementation of minimum labor standards for Filipino workers at the destination countries (Acacio, 2008). In the 1970s, with the shift in demand of labor force from Europe to the Middle East, bilateral agreements were also sought for these new destinations, but all were unsuccessful. What the governments managed to reach were the framework agreements or statements of mutual cooperation regarding the recruitment and protection of foreign workers. In these agreements, governments usually allow the recruitment of workers by private recruitment agents working under state supervision. Examples of such agreements are those signed by the Philippines with Iraq, Iran, Jordan, and Gabon (Abella, 1997, p.66).

According to Tigno (2000), the export of Filipino labor continues to grow in the succeeding revolutionary government of President Corazon Aquino (1986-1992), who approved

the establishment of the Overseas Workers Investment Fund as a vehicle to pool all resources and tap debt-papers with the Central Bank (Gonzalez, 1998, p. 36). The use of BLAs expanded aggressively in 1987 by carving out new market niches for Filipino labor with the issuance of Executive Order 247 in that year. This became an economic necessity at a time when the tight competition was building with other labor-surplus countries. The government's labor export policy introduced the active role of private recruitment, which had previously been under heavy government regulation. In essence, aggressive market development combined with the commercialization of recruitment at the hands of the private sector reinforces the economic objective of BLAs.

The industrialization vision of President Fidel Valdez Ramos (1992-1998) banks on the technological change that migrants may bring upon their return, and tags them as "modern heroes". The Ramos administration supports the BLA as part of the government-led labor deployment through legislation, known as the Filipino Migration Act. President Ramos seeks to provide safety nets for the protection of human rights and dignity of migrant Filipino workers abroad (Tigno, 2004). What was supposed to be a temporary action, the overseas labor deployment strategy has now metamorphosed into an ambitious national development plan. It is based on the assumption that returning migrants will bring in the human capital needed to support the later industrialization plan. Clearly, the economic objective of the government is prioritized because of the assumed benefits of circular migration and the potential path for industrialization with new foreign skills acquisition of return migrants.

No other administration has been as aggressive as President Gloria Macapagal-Arroyo's (2001-2010) in marketing the availability of labor surplus from the Philippines. In her often-quoted pronouncement, she proudly declares herself not just a national leader but a CEO of a global enterprise of overseas working Filipinos who are generating billions of dollars for the national economy (Rodriguez, 2010). Her socio-economic development blueprint galvanizes the role of overseas remittances as sources of investments and job creation (National Economic and Development Authority, 2004). In effect, the supply of remittances spurs the perennially weak domestic economy. In the long run, overseas labor deployment serves the interest of her government well as it eases the high unemployment rate among nurses at home. True to her commitment to the nation's legislated foreign policy, she has secured 28 BLAs that facilitate the deployment of excess human resources within the agreed principles and procedures of protecting labor and migrants' rights. A good example is the Japan-Philippine Economic Partnership Agreement (JPEPA), which is a comprehensive treaty that Japan initiated by interlocking their economic interests to the nurse deployment program (Amante, 2007).

Benigno Aquino's presidency (2010-2016) coincides with the ratification of the WHO Code of Practice. He forges a labor cooperation agreement for nurses with the Federal Republic of Germany within the parameters of fair ethical recruitment. As in previous administrations, BLA is a facilitation mechanism for overseas deployment of nurses with more institutionalized support regarding recruitment, language competencies, and training (Department of Labor and Employment, 2011, p. 39). The government trains a cadre of labor attachés to be posted in the diplomatic missions who cater to the dual demand for marketing strategy and provide welfare services in destination countries hosting a high concentration of Filipino workers. Concomitant to this development, Peji (2010) sees the need to enhance the labor department's capacity to navigate the regional trade negotiations to optimize the national interest of the country's position in negotiating overseas labor deployment.

The mobility of nurses is illustrated in Graph 1, which shows the interaction of the number of signed BLAs with the inflow of cash remittance receipts (in \$US billions), and the substantial contribution to economic wealth (represented as Gross Domestic Product in current prices). From 1961-1980, the Philippines' economic growth shows a period of slow momentum when the country started to look for labor markets for overseas employment in the 1970s. The rebirth of a democratic institution in the mid-1980s also saw an economic recovery boosted by strong business confidence in the restoration of democratic institutions, the return of rules-based government, and the rejection of a military-backed regime. However, the expected economic turnaround hit a snag as the Gulf War broke out, and the domestic economy was not spared from the rising prices of crude oil. Overseas deployment became the stopgap measure, and the BLAs have thus become a major thrust of Philippine foreign policy. The last 15 years (2003 – 2018) shows high-growth economic momentum with overseas remittances having contributed steadily at no less than an average of 11% of the total gross national product. As human labor export is becoming a major component of the national development strategy, moral scrutiny is called for, as the BLA is poised to be the new structure of migration and should reflect justice.

Graph 1: Gross Domestic Product (%), level of remittance receipts, and signed bilateral labor agreements (1961-2018)

Sources: World Bank Development Indicator (for GDP), 2019, Department of Labor and Employment (for BLAs), and Central Bank of the Philippines (for remittances)

2. BILATERAL LABOR AGREEMENTS FOR GLOBAL NURSES

After the World War II reconstruction, BLAs have come to serve multiple political and economic purposes. According to Wickramasekara (2006), there are at least four reasons behind the BLA strategy. First, BLAs fill in the needed labor requirements that fueled the different economic growth phases in Europe and Middle-Eastern countries. Second, BLAs create cohesion among similar states as in the early years of building the EU community. Third, BLAs regulate or formalize the existing flows of migrants from developing to developed countries. Fourth, BLAs control the number of irregular migrations while contributing to the development policies.

For the Philippines, the functions of negotiating BLAs are attached to offices that preserve and protect the constitutionally mandated pursuit of independent foreign policy objectives as enunciated in the Philippine Foreign Service Act of 1991. This Act rests on three pillars: (I) preservation and enhancement of national security, (II) promotion and attainment of economic security, and (III) protection of the rights and promotion of the welfare and interest of Filipinos overseas. It effectively provides the legal framework for pursuing BLAs with other countries but is captured within the diplomatic practice commonly exercised in international relations. However, these are insufficient to ensure ethically sound BLAs.

2.1 BLA in the WHO Code of Practice

The World Health Assembly adopts the 2010 WHO Code of Practice as a governance platform for the mobility of international health professionals. A notable part of its action points address “...use of bilateral, and/or regional and/or multilateral arrangements, to promote international cooperation and coordination on international recruitment of health personnel (Article 5, Section 5.2).” This international accord prescribes a bilateral partnership between a developing origin country and a developed destination country in managing the migration of their health professionals. Both partners should take responsibility in the provision of health services to their respective health population. Taylor and Dhillon (2012) consider the WHO Code of Practice as one of the finest moments of health diplomacy, being only the second time that the World Health Assembly has used its recommendatory power since the passage of the Milk Code in 1981. Additionally, the endorsement of BLA ushers in a new structure for the international movement of nurses while the interest in human resources for health grows rapidly.

When the WHO Code of Practice was under deliberation, it was unclear regarding the primary interest of country delegations in advocating for BLA as part of the policy instruments

in promoting for international recruitment of health professionals. Nevertheless, it appears in several studies that BLAs became the practice among government-to-government transactions in easing the flow of trade in services under the World Trade Organization-General Agreement on Tariffs and Trade in Services (WB, 2013; Cabato, 2006). Plotnikova (2012) observes that the WHO Code of Practice is framed within the ideal boundaries of a human rights perspective. However, Taylor and Dhillon (2012) chronicle the five-year negotiation in drafting the WHO Code of Practice, which reveals major divisions that have polarized the policy positions of country-delegates. One such conflict is that of the responsibility of recruiting countries on the negative effects of international recruitment to the origin countries. While the final draft of the WHO Code of Practice has a noble objective of addressing health inequities, it has a weak commitment to responsibility. Existing BLAs confuse some guiding principles regarding the protection of rights of migrant nurses as well as the health workforce issues that countries being left behind may suffer. There is reason to doubt that the BLAs, as currently practiced, will still be hinged on the business model of international recruitment, and vulnerable to the asymmetry of powers that historically lean toward the national interest of destination countries (Tyner, 2000). The purpose is mainly economic. It gives a cost-effective solution to the nurse shortage for destination countries, and opens more labor markets of deployment for origin countries.

2.2 Bilateral labor agreements in current practice

To better understand BLAs in actual practice, a closer examination of the two BLAs on human resources for health is provided: GTZ (Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH) Germany-Philippine Triple Win Project and the Japan-Philippines Economic Partnership Agreement Japan (JPEPA) under the Memorandum of Understanding on Acceptance of Nurses and Caregivers. Against the background of this comparative analysis, the moral problems of BLA are highlighted.

Germany and Philippine GTZ Triple Win Project

In 1974 the Philippines started to send what would become around 4,000 nurses for professional training to Germany through a development cooperation scheme. Most of them have already acquired permanent residency (Domingo, 1983). A number of bilateral agreements soon followed in various areas of development aid cooperation, e.g. human resettlement programs, professional technical cooperation, and trade and commerce. In 2013 the GTZ Germany-Philippine Triple Win Project came into effect as an offshoot of the BLA signed

between the Philippine Overseas Employment Agency (POEAC) and the German Federal Employment Agency/International Placement Services (ZAV) with the overarching goal of strengthening development cooperation on labor facilitation (POEA, 2013). The project reflects the mutual interests of the countries. Germany's nursing sector is currently experiencing a shortage of nurses and demographic changes, which require even more nurses in the medium and long term (Philippine Overseas Employment Administration, 2016). In the Philippines there is a surplus of qualified nurses that cannot be absorbed by the local labor market. The Triple Win Project therefore bridges the interests of the Philippines. The rising number of unemployed nurses in the Philippines is reduced. Qualified Filipino nurses are recruited by Germany and fill in the nursing shortage.

The project seeks to ease the health workforce crisis. It has a government-to-government arrangement through which the POEA and ZAV and GIZ have established a joint recruitment process for qualified nurses to work with German companies. The cooperation between ZAV, GIZ, and the employment agencies in the partner countries coordinates labor migration in the spirit of partnership. In this way, nurses get the chance to improve their future. The project entails collaboration employment agencies in the partner countries as well as with ZAV, to select and assess nurses, provide them with preparatory language and professional courses, and then place them in work. In this project the nurses obtain support in their country of origin, upon arrival in Germany, and during their stay there. Through its offices in countries, GIZ supports nurses' German language skills, professional preparation for the placement, and integration in Germany. GIZ also coordinates the recognition process for the qualifications acquired abroad (GTZ, 2020).

In the annual report of POEA (2016), a Memorandum of Agreement between the Philippines and Germany was negotiated and signed in 2013 that enables a legal framework for Filipino nurses to be employed in the healthcare sector in Germany. No private recruitment agency is to assist in the application as all interested parties must personally apply at the POEA. From the period of 1 January 2014 to 23 August 2017 there were 310 workers processed as government hires and 94 direct hires.

JPEPA Philippines-Japan MoU on Acceptance of Nurses and Caregivers

An estimated 13,857 Japanese workers were already settled in Davao, Philippines as abaca plantation workers before the Second World War (Goodman, 1967, p.31). The diplomatic ties between the two countries normalized after reaching an agreement on war reparations by

Japan for its occupation of the Philippines (Yoshikawa, 2003, p. 377)². In recent decades Japan has been the top aid donor in the Philippines with huge investments in infrastructure development, social services, and education and training (Camacho and Cuevas, 2004; NEDA, 2020). In the 1980s the influx of Filipino working migrants to Japan started to increase with a majority of them working in the entertainment industry and later in the manufacturing sector (Lambino, 2015). Japan's ageing population and the falling fertility rate create unfavorable repercussions to the slowing acceleration of its economy. In 2006 the governments of Japan and the Philippines adopted a comprehensive economic development framework in the area of labor cooperation tied up with investments, technical, and development cooperation. The socio-economic predicaments at that time were an opportunity for both governments to safeguard systematic hiring of Filipino nurses for relocation to Japan under the JPEPA. Through the Memorandum of Understanding on Acceptance of Nurses and Caregivers, both countries commit themselves to implement a fair migration process for Filipino nurses, including support for recruitment, language training, technical skills, and placement. The POEA and Japan International Cooperation of Welfare Services (JICWELS) forge a unique hiring program that allows the Filipino nurses and caregivers to take the licensing exam and practice their profession in Japan (POEA, 2009). It requires the candidates to undergo Japanese language training and cultural courses in preparation for the exam under a fully transparent employment contract with salaries equivalent to local rates. After passing the licensing or certification examinations, fully qualified nurses and certified caregivers have the opportunity to stay for an unlimited period in Japan to practice their profession based on new and upgraded employment contracts with their employers.

Only a few hundred nurses have successfully been accepted to work in Japan under the JPEPA. Some scholars describe this as a mere "statistical achievement" that is bound to be a policy failure (Inagi *et al*, 2014a). The agreement is a lose-lose situation for both countries as JPEPA turns out to be a failed migration policy bound to give the lackluster performance in licensing exams and a lack of integration programs for foreign nurses. Yoshichika *et al* (2012) and Añonuevo (2011) shed light on these difficulties encountered by Filipino nurses in passing national exams and point out that beyond the commonly cited language barrier, the differences in the nursing curriculum of both countries merit further attention. For JPEPA to be effective

² "Treaty of Peace with Japan" and "Reparations Agreement Between Japan and the Republic of the Philippines" became effective in July 1956.

the program should follow the US model, which facilitates the deployment of foreign nurses in order to fill the staff shortages immediately (Yagi *et al*, 2013). Saving JPEPA also depends on the cultural acceptance of Japanese citizens to receive foreign health workers and on improving the preparations for training and familiarity of nursing practice among foreign-trained recruits (Yujuico, 2015).

However, whichever model is chosen, the structures of migration are potentially replicating injustices. Labor agreements of this kind have a dual aim to phase out unskilled labor migration and promote skilled labor (Ford and Kawashima, 2016). Asato (2012) explains the polarization of the labor market in which there are dual standards for local health workers and for the foreign-trained nurses. The latter is a socially constructed lower kind of labor that complements the former in the event of high turnover rates, retirement of aging staff, and as reserve staff for holidays. In the same manner, the leading professional nursing organization, the Philippine Nurses Association (2015), released a position paper against the unfair terms of this agreement. The association describes the agreements as a cheap labor trap for Filipino nurses and caregivers (PNA, 2010). PNA denounces the unfair treatment of Filipino nurses as compared to their local counterparts. The discriminatory hiring processes of Filipino nurses to be nursing assistants only reduces them to lower occupational status. PNA also criticizes the Japanese government for not paying attention to resolving the systemic problem within their public system while resorting to hiring foreign nurses with unrealistic and unreasonable demands to fill the gap. They bring up the uncompetitive compensation in Japan when compared to relatively higher salaries in the United States, the United Kingdom, and Canada, which is not commensurate with the high cost of living in Japan. At the very least, we can infer that the BLA does not primarily seek the protection of rights of migrant nurses but is instead a plain business deal, and the asymmetry of powers leans toward the national interest of destination countries.

2.3 Ethical questions on the current practice of bilateral labor agreements

From the perspective of Rawls' liberal justice, which was discussed in the preceding chapter, there will be at least three major ethical concerns associated with the current practice of the BLA: (1) unprotected civil liberties, (2) equity issues, and (3) asymmetry of political relationships. Ways in which BLAs can be made more ethically sound will be shown in subsequent chapters.

Unprotected civil liberties

Triple Win is contrived as a labor migration strategy to address the problematic situation of health workers in countries of both origin and destination. It acts as a paradigm that integrates migration with development cooperation on the assumption that it will reap win-win outcomes for the individual migrant, the origin state, and the destination state. Individual civil liberties are central here. However, a concern to be raised is how civil liberties are protected in BLAs. Currently several liberties are unprotected. The most prominent ones are: labor rights, freedom of career choice, freedom of movement, and the freedom of political participation, as can be seen from the empirical data.

Lower status of the freedom of movement and career choice

The primary problem is that the BLAs prioritize economic prosperity over what is in the best interest of the citizens. First, there is a notable degree of mismanagement in a government that deliberately and continuously produces more nurses than what the domestic market can absorb. But when a government seeks bilateral agreements to export them, it deserves ethical questioning. A case can be made that under such conduct, the state has obligations that are sidestepped. The case can also be made that the government must recognize the citizen's freedom of movement and choice of occupation as primary goods.

In a short-term perspective, it may seem like BLAs support Filipino nurses' freedom of movement. BLAs are door-openers for nationals who otherwise may have difficulties to obtain work visas to go abroad. Such agreements let Filipino nurses move across borders and take up occupation in a foreign country. This may be seen as an opportunity for self-realization. However, it can be questioned whether their choice to do so is a free choice or not. The case can be made that the Philippine nursing export implies a structural force that may shape individuals' preferences according to what is feasible and possible to realize. Even if they may decide for themselves without direct pressure or force, their choice can still be a result of a certain measure of influence. Organized overseas work is honored in society and nurses have limited reasonable options to remain within the country. In that sense, their freedom of choice is, if not restricted, at least somewhat hampered. The aim of the BLA is precisely to honor the right of choice to occupation, but there are issues on safety and order that must be put in place in the context large-scale labor migration. A BLA is therefore a policy instrument that protects the equality of rights and safety of migrants rather than what primarily appears to facilitate recruitment and deployment of nurses.

Unequal labor rights

Ideally, migrant workers should have the same status as the workers of the destination countries, e.g. fair access to opportunity. Equal moral worth is expressed in the protection of rights of health workers in destination countries, and concomitantly, benefits such as social security, bonuses, and paid vacation. The principle of labor rights has expanded, especially in developed countries. This means that the same rights should be recognized for all and that discrimination against foreign nurses is inexcusable. Even if these rights are secured to a lesser degree in developing than in developed nations, the rights are still vital, and should promote the general welfare of workers, ensure productive work conditions, and regulate the exposure to harm and hazards among those doing precarious jobs.

No normative guidelines have to date been developed for BLAs. The closest reference to justice they can draw upon are the national laws and international conventions on labor rights of migrant workers. However, in practice BLAs do not apply the legislation and conventions equally. The German Government assures that Filipino nurses enjoy the same rights as their local nurses, but based on the recent policy assessment of the Japanese BLA, this is not necessarily the case for foreign-trained nurses from the Philippines and Indonesia (Asato, 2012).

As mentioned in Chapter 1, employment contracts also potentially carry provisions that are inconsistent for the equal labor rights for foreign-trained nurses. Several work contracts restrict career mobility (Asato, 2012). A nurse who does not fulfill the agreed length of work stay in the contract may be subject to considerable penalties. This happens regardless of whether the nurse entered the contract under unfavorable conditions such as a dire need for a job. Nurses, who are unfamiliar with the local language when they initially sign their contract, are also limited in their ability to dispute unfavorable contractual agreements or vaguely written legal construction. Their access to legal services and court representation can be costly if the case rises to legal proceedings. Without a labor union that can help them, foreign workers usually bear the cost of hiring a counsel, even for nothing more than legal consultation. While it is the main guiding principle, the government may sidestep the equality provision in order to reach an agreement for faster recruitment and deployment of nurses in the labor market.

Limited political rights

Due to the purely economic justifications of BLA, certain political rights are not given priority because doing so could jeopardize the success of the negotiations between governments. These cases are normally seen in negotiations with Middle Eastern and Asian countries where

human rights protection have been downplayed in negotiations (Martin, 2005, p.13). Again, BLAs come to look very different depending on the degree of a political regime's commitment to human rights. Whether partially or wholly denied, political rights have negative implications on an individual's life and prospects in almost all spheres of life – income, career, family, and sense of community. Hereinafter are the *domino* effects of having limited political rights on foreign nurses' prospects in life.

With limited political rights and lacking permanent residential status, foreign nurses are not likely to be politically active. As a result, they may not be able to influence decisions and policies that affect them. While the restriction of voting rights is legally justifiable, it is not acceptable to deny foreign nurses or migrants the wherewithal to contest policies that greatly affect them. It is clearly understood that state allegiance and citizenship are the strict prerequisites for voting, and that these in turn give citizens full access to political participation. But it turns out to be a contested case when a government levies income tax on both foreign-trained and local nurses. It can be argued that individuals who contribute with taxes also should have a certain political representation. They have the right to be heard and represented in government legislation to influence the policies that shape the future of their income and wealth, career growth, and personal and family plans. For example, foreign residents in the European Union are entitled to vote in local elections subject to specific election laws of the member-country. This is non-existent in the Middle-Eastern and Asian countries, however, where most BLAs are actively implemented.

The temporary citizenship status of foreign nurses also limits their freedom of assembly, and perhaps the most common limitation is the restriction of organizing or joining labor unions. The freedom of association is considered to be a higher-order civil liberty that guarantees workers the right to peacefully associate with any groups that share their beliefs and advance collective interests. But these rights are constitutional rights granted primarily to those with residential citizenship status in democratic societies. Although there are exceptions, these rights are generally not well-respected, and in many dictatorial regimes in the Middle East and East Asian countries they are blatantly violated. A denial of peaceful assembly is a denial of the opportunity to articulate dissent, which is a form of freedom of speech. This means that foreign nurses have weak or no chances of critically addressing rapidly changing working conditions for nurses. Taken together, in these ways BLAs may hamper the highest order of equal liberty. Weak opportunities to voice consent may in the long run be detrimental to individuals' willingness to engage in and support their host society.

Equity issues

There are three benefits of the Triple Win Project. Qualified nurses can reap the benefits of better income, improved working conditions, and the opportunity to send money to their left-behind families. An origin country benefits from relaxed unemployment pressure and remittances that equalize its foreign reserve volatility. The destination country's shortage of nurses is alleviated. For them, there are many additional benefits of BLAs in that they are taking control of the administration of the recruitment process and ensuring a high passing rate for prospective nurses. The destination country provides services to improve language proficiency skills and, more importantly, vetting on the qualifications of the applicants. While there are merits in this new approach to migration governance, the previous investigation of the conditions of Filipino nurses has raised several equity issues, ranging from the vulnerability of the nurses to the poor condition of the state health system. These inequities should be taken into consideration in future BLA negotiations. But as seen in official documents, the Triple Win Project and other forms of BLA are mainly instruments for efficient recruitment to the destination countries. The ultimate goal is to fill the shortage and get the best and the brightest talents from poorer origin countries.

On this note, another important part of procedural justice is highlighted – the principle of fair equality. BLAs have fallen short in fulfilling the equity perspective, and hence, in addressing the present structural injustice in the global migration structure for nurses. According to the Rawlsian demands of procedural justice, the first principle of equal liberty is the primary standard for the constitutional convention, and the main requirements are that the fundamental liberties of the person — liberty of conscience and freedom of thought – must be protected within the political process (ToJ, p. 203). Here, drawing on Rawls about the task of representatives in choosing primary social goods within the basic structure of society is a useful guide. Under certain conditions however, health can fall under the category of public good, as when a community is under threat from the spread of contagious disease. To Rawls, a liberal society can collectively decide to include essential public health services as a primary social good (ToJ, p. 62). Citizens are willing to cooperate to establish a list of primary goods as long as they have the principle of fairness in mind. However, social cooperation is possible only if people have expectations that the basic structure will deliver primary social goods for their future needs. Rawls wrote about the individual's duty to support just institutions, which has two parts: *“first, we are to comply with and our share in just institutions when they exist and apply to us; and second, we are to assist in the establishment of just arrangements when they do not*

exist, at least when this can be done with little cost to ourselves” (ToJ, p. 334). It can be argued that those who are left behind in the Philippines have a lower healthcare standard than what they could have had, if the Philippine government did not promote the outflux of skilled nurses. And, in this way they are deprived of health care of the highest attainable standard – a basic right that they are entitled to under the Universal Declaration of Human Rights (Article 25). In the long run this may be problematic in ensuring social stability. While Rawls recognizes the advantages of relying on a market system for the reason of efficiency, he will not sidestep equal liberties and fair equality of opportunity. Safety nets play an important role in his domestic theory of justice (ToJ, p. 271-274).

Worst off at a more disadvantaged position

BLA creates a problematic situation when the already worst-off individuals are at risk of being further marginalized. It has been shown that the outflux of skilled health workers from underprivileged to privileged nations work to the detriment of the origin country’s healthcare system (Dohlman *et al*, 2019). Countries that from the outset have relatively weak health resources are further drained of health workers – and typically deprived of the nation’s most talented workers (Bredtmann *et al*, 2018), thereby depriving the citizens of the origin country of their right to a quality healthcare. The Philippine government’s strategy to negotiate overseas employment mainly targets skilled and experienced nurses. Less experienced nurses do not qualify for overseas deployment. In this way, the domestic market comes to face a shortage of qualified and highly skilled nurses at home.

The assumption that the unemployment rate of nurses will fall does not follow a linear causal logic. In reality, less qualified and experienced nurses fill the vacant positions in the country. Running understaffed hospitals with limited skillsets hampers the quality of healthcare services. To professional nurses with substantive clinical experience, remaining and working as a nurse in the home country becomes an even less attractive option. It suffices to say, then, that BLA creates an unjustified and unacceptable inequality in the healthcare system of the origin countries, which harms the health status and patient security of those who are left behind. BLA, as executed in the Triple Win Project, is a mobility arrangement under the auspices of the labor ministries. Surprisingly, there is only limited involvement of health ministries in negotiating BLAs. This implies a risk that the origin country favors this administrative arrangement without due consideration of the impact on the domestic health provision. BLAs ultimately prioritize the solving of a tight labor market over addressing the challenges in the public health system. The

government's underinvestment in developing the domestic health workforce is detrimental to the quality of public health services. For a liberal society to remain stable, the provision of primary social goods must trump economic and organizational concerns. Overseas deployment should not be the primary solution to the unemployment problem among nurses.

Undue advantage for the better off

There is a common view that remittances have a positive effect on the origin country's economy (Straubhaar and Vâdean, 2006 p. 158- 159). However, even if benefits follow from health worker emigration, remittances typically work in favor of those in higher social positions, and in the long run, the culture of dependency on remittances can be detrimental to the moral fabric of the origin state (Castro-Palaganas *et al*, 2017). Studies show that the economic impact of remittances implies direct decline of the overall national poverty rate, but the effectiveness of this reduction varies. It has been shown that expenditures increase by as much as 40% in families that receive remittances (Pernia, 2006), and, the level of remittances is a significant source of income to almost 80% of all the households in the Philippines. However, the increase in regional household income does not benefit low-income households as much as the higher-income families. Holmvall (2007) confirms the same pattern of unequal distribution of remittances between regional and urban areas. The areas with a higher proportion of migrants typically receive the largest share of foreign remittance, and in effect, registers higher poverty reduction rates. These regions are typically relatively privileged to begin with, whereas less wealthy areas receive little or nothing of remittances. Thus, the remittances do not benefit the most impoverished families. Simply put, under a remittance-based economy, income inequality among poorer households widens.

The popular view that remittances have a trickle-down effect on the origin country is questionable. At least, remittances are not a means to ensure primary social goods such as healthcare provision. According to Yang and Martinez (2006), there is a significant poverty reduction likelihood of 2.8% among families for every 10% increase in remittance receipts. Poverty reduction is also noticeable among non-remittance families, but the spillover effect is hard to determine statistically. Families that receive remittance are in a better financial position compared to non-migrant households. Consider a scenario of two families in which Family A receives remittances from abroad, and a Family B that relies on a meager source of local income. The flow of remittances creates a consumption behavior in Family A, which causes commodity prices to increase. The Philippine economy is consumption-driven, and this macro-

economic characteristic puts the poorest of the low-income families at an unfair disadvantage. The effects of unequal access to remittances lingers on. Family A can afford to send family members to better schools and advance their future career. Family B, who cannot afford to send any of its members to school, will likely face limited social mobility and be trapped in the vicious cycle of poverty. The remittance-receiving family will probably pour money into education and health investments, thereby translating into better social positions than families whose income is locally sourced (Yang and Ramirez, 2006).

Asymmetry of political relationships in international affairs

A liberal foreign policy presumes the principle of equality and independence of nations. In theory, legitimate sovereign states are equals irrespective of, e.g. their size and wealth. Therefore, their interests should be of equal weight. In practice, international politics is dominated by the more privileged and wealthier nations. This power imbalance is mirrored in BLAs, which are influenced by power asymmetries and struggles between nations. In an ideal situation, liberal foreign policy should uphold the equal and independent status of the states. The present configuration of power is far from ideal. International relations are still dominated by the realist tradition of politics or simply the brute display of power. However, the call for fairer labor practices gained a momentum of support after the adoption of the Universal Declaration of Human Rights and the International Labor Convention Resolution no. 89, which require governments to uphold the implementation for fair recruitment standards despite the acknowledged challenges of turning them into workable national action plans (ILO, 2006; ILO, 2016). Powerful countries with strong military infrastructure and economic dominance in the global trade system have an advantage in diplomatic relations. Chilton and Posner (2017) show that the main driving forces in BLAs between Middle-Eastern and Asian countries are those of economy and politics. Colonialism may have ended long ago, but it has an enduring effect on current diplomatic relationships.

Weak enforcement mechanism of contract agreements

Treaties and conventions concerning labor, health, migration, and related civil liberties affecting migrant nurses have been broadly adopted and ratified. Even so, compliance is far from perfect. In the case of the WHO Code of Practice, Siyam *et al* (2013) point to the common implementation bottlenecks that are due to a lack of awareness among stakeholders working across different government agencies, inconsistencies in data management on migrant health

workers, and poor appreciation of the interconnectedness of migration to health and development. With that, a stronger global institution with capacity and mandate to oversee international accords is needed. However, it is not a politically viable option at the moment. Abella (1997, p. 66-67) is of the opinion that the international model agreement on the Migration for Employment Recommendation (Revised), 1949 (No. 86) still provides relevant guidelines and inspiration for contract labor migration. However, how these respective implementing mechanisms actually operate in practice are yet to be realized. After all, the negotiations will always boil down to the technical justifications for specialized agreements, such as the complex matters pertaining to social security provisions for migrant workers. Often, negotiators are willing to compromise these provisions, which to them is a better option than having no agreement signed.

Avoiding responsibility for the duty of assistance

Clearly, the affluence of the destination country puts it in a better position to address its domestic health inequities than what an economically burdened origin country can do. This imbalance raises an ethical concern and demonstrates a dire need to address these neglected health inequities. The majority of BLAs do not take up the provision of development assistance as a major part of the agreement. Providing such assistance entails higher costs and additional administrative burdens for destination countries. The opportunity for migrant nurses to earn higher income abroad and the potential amount of remittances are under current practice considered enough of a justification for negotiating BLAs. BLAs operate in the context of labor surplus. The regulatory framework of the states is driven by the creation of benefits from the surplus. Those negotiating BLAs seek optimal efficiency in the labor market. Health workforce planning is essentially about resolving inefficiency. If the destination country avoids shouldering of responsibility, the BLA adds to the widening inequities rather than helping to solve the already poor health workforce situation of the country of origin.

3. MIGRATION POLICIES AS SUBJECT OF JUSTICE

In conjunction with the WHO Code of Practice, the Aspen Institute commissions experts to review BLAs. As an offshoot of this initiative, a template for countries to follow when entering negotiations was developed. The Model Bilateral Labor Agreement (Dhillon, Clark, and Kapp, 2010) offers two learning models that are sensitive to the varying characteristics of

countries. Importantly, a model of nurse development is included. However, these models are carved out from multiple BLAs currently implemented around the world, and in due consideration of standing international conventions, statutes, and resolutions. There are two contract models developed by Aspen Institute that will aid governments in initiating labor migration reforms. Model BLA 1 is a comprehensive migration policy that includes fairness in work employment, rights, and benefits, as well as providing clarity on putting forward the principle of equity in cooperation areas of human resource development, training, and reintegration facilitation for return migration. Model BLA 2 provides a format for dealing with undemocratic governments. Although rather vague in its formulation, this model is tailored for countries that lack clear standards for how BLAs should be formulated and what they should entail. However, it does not comply with the demands of procedural justice, and for this reason should be rejected. While Model BLA 1 sets justifiable standards, it needs further deepening in terms of procedural justice and ensuring equal application of BLAs. Nonetheless, despite these learning models, it still admits economic pragmatism and unfair practices of non-liberal societies. They lack an expression of standards that can prevent inequities.

3.1 Basic structure and social justice

Rawls' ideal theory assumes that free and equal individuals imbued with a sense of justice and a capacity to cooperate in developing a basic structure of justice are assumed. The original position constructs an ideal contractual situation. This hypothetical contract situation can serve as a model for the development of a fairer BLA. Certainly, current contract situations between developing and developed nations are far from ideal. Developing nations like the Philippines suffer from unfair background conditions as described in the first chapter. Despite the liberal democratic ambition in the Philippines, especially, the principle of liberty and democratic equality are not fully realized. Wealth and income, health, and freedom of movement are civil liberties of paramount importance to all members of society.

Income inequality is a perennial problem in the Philippines that is mainly caused by an undemocratic structure upheld by an economic elite. Income distribution is highly skewed toward the nation's economic elite, which translates to a higher level of income inequality (Albert, Dumagan, and Martinez, 2015). The economic elite dominates in almost all aspects of the society, including the provision of health and the exercise of the freedom of movement. Clearly, a structural change is needed to make the Philippine society as a whole fairer, and to ensure fairness in the healthcare sector. This is necessary to stop massive outmigration of

nurses. Certainly, individual nurses should have the right to move abroad for career reasons or reasons of family reunification, but transnational migration is not ethically acceptable when it is the only viable option.

Individuals' chances of leading decent lives are at stake. Hence, individuals should be guided by Rawls' core idea of justice, which reads, "... *the conception of social justice, that is to be regarded as providing in the first instance a standard whereby the distributive aspects of the basic structure of society to be assessed* (ToJ, p. 9)." Rawls refers to the basic structure of society as the primary subject of justice, in which citizens can collectively agree, even of a plurality decision, on how the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. Furthermore, there are two kinds of reason why the basic structure is the primary subject of justice. First, Rawls stresses that the basic structure is the primary subject of justice because its effects are so profound and are present from the start (ToJ, p. 6, JAF, p. 52-53). He states that within the workings of the political constitution and primary economic and social arrangement, institutions can define men's rights and duties and influence their life-prospects. Second, only institutions can preserve the background condition of justice over time, which individuals cannot effectively carry out because their aspirations, needs, and wants are prone to arbitrariness (JAF, p. 55-56). When the basic structure is the subject of justice, citizens act as a collective within the deliberative design of procedural justice. The aim is to preserve the just background conditions for free and fair agreements by upholding the main principles justice. The ranking of primary social goods, as defined by Rawls, is crucial for fair access to opportunities for human flourishing and must be provided by the institutions to ensure that the worst-off will in a society benefit the most. Liberal society persists when background justice remains intact, consistent, and fair throughout the lifetime of any of the members who sustain it. Rawls (JAF, p. 57) concludes that the two kinds of reasons to subject the basic structure to justice also answers to the public role of educating citizens. In this way, citizens internalize a conception of themselves as free and equal, as well as become motivated and confident in their future. Referring back to the background condition, because there is a strong sense of familial ties among Filipino nurses, and with that comes a sense of filial responsibility, some family members are expected to work abroad in their hope that they can financially help. If the basic structure can effectively provide them gainful employment and satisfaction as dignified nurses at home, they are more likely to remain.

3.2 Reforming the migration policies

The Philippines as a nation is vulnerable to a mixture of elite capture, political adventurism, and democracy fatigue among distressed members of the society. This partly explains the culture of health worker migration as a structural process born out of the unfair administration of social justice. The current situation in the Philippines is unfair and hence both the situation of health care workers and migration policies should be improved. The lack of a basic structure that safeguards basic rights has created a situation that threatens the public health system giving rise to a nurse migration that seems never to end. In the case of the health workforce in the Philippines, the basic structure needs to be refashioned and secure primary social goods pertaining to healthcare and the migration of nurses. In a just society, the basic structure should ensure the liberties of its citizens. The government should provide an enabling condition that guarantees the fulfilment of these civil liberties, including their overall health and well-being, self-development, job security, familial relations, among others. These liberties are compromised as the migration of nurses disrupts the ability of the state to preserve and protect them. While the state can exercise the coercive power to restrict migration, the point is for these liberties to prosper within a fair societal structure.

In the next chapter a normative account is offered for political responsibility in reforming the migration policies for nurses by making sense of the moral force of Rawls' principle of justice in framing the fair terms of BLA for migrant nurses.

Chapter Five

Terms of Ethical Recruitment of Global Nurses in a Bilateral Labor Agreement – A Rawlsian Contract Approach

John Rawls' political construction of justice has been explained (in Chapter 3) and will be used as a starting point to explore the terms of fairness in the development of fair BLAs. Later, it will be shown that these principles of fairness in institutions shape the procedural content of negotiating for both individual contracts of nurses and the foreign policy objectives of BLA. The BLA is a form of private contract that adheres to the standard of fairness in employment for nurses. Rawls' contribution to pure procedural justice can shape the deliberative mechanisms of policymaking on the protection of individuals' equal liberty. The procedure also ensures the integrity of the effective functioning of the state in the delivery of primary social goods. At the same time, Rawls' theory of justice is taken to provide the BLA as a contract for foreign diplomacy that carries the moral principles of equality and independence of states. It appears as a constructivist approach in negotiating a BLA as a domestic policy with a foreign affairs application. At the end of the chapter, I demonstrate what BLAs ought to look like when adhering to the requirements of fairness as justice.

1. A RAWLSIAN CONTRACT APPROACH TO BILATERAL LABOR AGREEMENT

This section draws on the Rawlsian liberal justice to advance an ideal BLA. The ideal BLA is approached in two stages. The first stage centers on the principle of equal liberty by listing a specific index of primary goods that Rawls initially expounded on regarding justice as fairness. The list entails liberties on the freedom of thought and conscience, movement, wealth and income, and social basis of self-respect. In constructing an idealized BLA based on Rawls' theory of justice, the analysis focuses on a domestic policy designed as an individual-focused procedure of fair recruitment that secures the basic human rights of migrant workers. This policy pertains to the individual civil liberties fairly taken as primary goods to be acknowledged, guaranteed, and protected within the basic structure.

The second principle of democratic equality functions as a procedural guide for deliberative process at the second stage of prioritizing primary goods in a BLA. The basic

liberties of freedom of movement, right to occupation, and right to health overlap in reaching in a morally acceptable labor agreement for nurses' mobility. The content of Rawlsian procedural justice directs the prioritization of liberties that should satisfy requirements within the main principles of justice. Moreover, Rawls' political conception of justice needs an institutional mechanism to fulfill a collective responsibility to justice. A mechanism is needed to ensure fair access of opportunity and favor the least advantaged group if ever social and economic inequalities are to be eradicated.

Reference to the Philippine laws and policy actions connected with health worker migration is made. The liberal constitutional framework present in Philippine republican democracy is described. The description does not intend to be comprehensive. The aim is to show the relevance of Rawls constructivist approach and the priority of civil liberties in the context of BLA negotiations.

1.1 The Principle of Equal Liberty

The principle of equal liberty is applied as a means to identify the fair terms of contract in a BLA. Rawls understands all individuals as free and of equal moral worth. Rawls also identifies a set of basic liberties that are fundamental. Such liberties must be applied to all individuals equally in order for a society to be just. Rawls realized that his own description of liberty was insufficiently described in his earlier work. In *Political Liberalism* (1993), he further elaborates on the meaning and role of liberty. Three key components of liberty are highlighted: the agents are free, the restrictions or limitations which they are free from, and what it is that they are free to do or not to do. These elements cohere to his statement on liberty: "*Thus persons are at liberty to do something when they are free from certain constraints either to do or not to do it and when their doing it or not doing it is protected from interference by other persons* (ToJ, p. 202)." The basic liberties should be taken as a whole, as a single system that is regulated by the pure procedural justice within the constitutional democracy. The task of safeguarding liberty falls upon the shoulders of the delegates of a constitutional convention or a certain legislative body. These agents should decide how the various liberties are to be specified to yield the best total system of equal liberty (ToJ, p. 203). Rawls adds that the best arrangement of liberties depends upon the totality of the limitations to which they are subject to, and when these liberties come together in a whole scheme. In his restatement of the principles of justice, Rawls (2001, p. 46) explains that the first principle applies not only to the basic structure but more specifically to what we think of as the constitution. Therefore, basic liberties are a constitutional power that

also reflect the fundamental interests of the parties in the original position. The serial ordering of the principle of equal liberty can be read as follows: “*Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all* (ToJ, p 543).” But there is a priority rule to be followed for the application of the first principle of equal liberty, which means that a liberty can be restricted only for the sake of liberty in two cases: (a) a less extensive liberty must strengthen the total system of liberty shared by all, and (b) a less than equal liberty must be acceptable to those citizens with the lesser liberty (ToJ, p. 250).

In the case of the Philippines, the centuries-old colonial institutions initially set the primacy of liberal principles in achieving social justice as enshrined in the 1898 Malolos Constitution. Social justice at that time was equivalent to freedom from slavery, the imposition of unfair taxation, and the separation of the Church and the State (Malcolm, 1921). Although the first liberal constitution was suspended, it was after this period that the first Philippine Nursing Act (1915) was passed into law, as well as state legislatures for the construction of community hospitals and health centers. It also complements the introduction of public mass education being the greatest equalizer for a then highly class-based Filipino society. The idea of social justice as a state governing principle explicitly appears in the 1935 Commonwealth Constitution, stated as: “*The promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State.*” Several legislative acts of the erstwhile Philippine Assembly ushered in the promotion of public health, and in particular the raising of professional standards for the practice of nursing. In the successor 1973 New Society Constitution, the overarching goals for social justice were expanded beyond the general welfare of the people, as stated in Section 5 that promulgates “*...the State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits.*” In addition, a more comprehensive provision about social justice is in the list, such as the adequate social services in the field of education, health, housing, employment, welfare, and social security to guarantee the enjoyment of the people of a decent standard of living. The 1973 New Society Constitution also includes a more progressive and comprehensive statement on the protection of labor, equality in employment, and regulation of the relationship between workers and employers. The state sets the comprehensive legal framework for the labor sector that guarantees the protection of their rights and welfare. As a corollary to this development, the state also recognizes the other important rights of workers to self-organization, collective bargaining, the security of tenure, and just and

humane conditions of work. Moreover, the overseas deployment of skilled labor is included as part of the national human resource development strategy. The Philippine Labor Code became the legal backbone of the country's human labor export strategy.

The present 1987 Philippine Freedom Constitution is built on the liberal foundation, which emerges from more than a century of struggle for democratization. It stipulates the promotion of social justice in all phases of national development. Along that line, the state values the dignity of every human person and guarantees full respect for human rights. Primary social goods are taken as a comprehensive list of civil liberties. There at least three primary goods that merit questioning in relation to labor migration: right to movement, the right to work, and the right to health. In Article 14 the constitutional delegates deepen the status of social justice and human rights as primary social goods, categorically prescribing legislative institutions to put a special premium on social justice:

.... to give the highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

This declaration is further strengthened by its commitment to the principle of equity that stipulates economic opportunities based on freedom of initiative and self-reliance of its citizens. Through a deliberative process of legislative actions, institutions are designed to facilitate the effective provision of these primary social goods. To satisfy the first principle, the recognition of primary social goods that will be essential in the flourishing of migrant nurses' civil liberties must be afforded to them. According to Rawls (ToJ, p. 142), the goods are inherent to the individual before the original position. Therefore, primary goods are naturally indomitable, unalienable within the individual, and are present before the contracting parties are agreeing on the main principles of justice. The contracting governments must recognize, uphold, and protect these most basic goods, but not limited to aspiring nurses, who in principle will be involved in a free and fair procedure of agreeing to enter into a private contract. For the Philippines, the Philippine Labor Code provides specific provisions on the fundamental rights of a migrant worker. With that, there are essential primary goods that should be recognized, upheld, and, protected in negotiating a BLA, namely: basic civil liberties, freedom of movement and choice of occupation, wealth and income, and social basis of respect. These primary goods must be contained in the idealized BLA as the first step of satisfying the first principle of the equal liberty of individuals, which will be demonstrated shortly. In addition, Rawls sees at least two

approaches to the listing of basic liberties. The first approach comprehensive historical account of how a specific society views its basic liberties, the second approach is through analytical consideration by which liberties are essential social conditions for the adequate development and full exercise of the two powers of moral personality over a complete life (PL, p. 292-293; JAF, p. 45). Below I will combine both the historical narratives of Philippine liberalism and the analytical process of enlarging the rational life course of migrant nurses – from the formation of dreams at home to fulfillment at the destination of work.

Basic civil liberties

The individual civil liberties of nurses are primary goods that are closely linked to the deliberative rationality of individuals' chances of planning and governing their lives. Rawls considers the freedom of thought and liberty of conscience among the most important of primary goods. This is so for the reason that these goods are intimately connected with rationality of decision-making, which involves choices, scheduling, and revising a rational life plan (ToJ, p. 205; LoP, p. 310 - 311). The right to devise the course of one's life plans is intrinsic to the rational decision-making process among nurses. At an early age, self-determination is connected with the state of dreaming about the future. In that, it brings the individual to take a step-by-step process of planning a life that involves acquiring formal education and clinical training. Related also is a sense of psychological preparedness of taking nursing as a lifetime profession. Moreover, nurses are endowed with natural talents with which they can gain economic advantage from the rest of the population. The pursuit of education and training to enhance clinical skillsets is taken to be personal investment based on long-term rational life planning. The extent to which individuals can maximize their potential depend on the way society is structured. The basic structure can be arranged in a way so that the worst-off in society can benefit from individual's chances of maximizing their potential. However, the case of migration of nurses may further complicate the principle of self-determination when it runs directly opposite to other liberal principles. Therefore, in a truly liberal democratic society, the right to self-determination of choosing one's life plan should be free from coercive migration policies. From the non-ideal viewpoint, I posit that the current practice of BLA is morally problematic because this undermines the autonomy of the individual. To better understand the circumstances of nurses before leaving their home countries, it is helpful to give attention to the formation of aspirations among nurses right at home. Nurses' choices to move abroad should not only be seen as rational decisions. This decision can be influenced by a host

of factors like family pressures. It contradicts the liberal argument that their rationality principally motivates immigrants to exercise their freedom of movement when they are seeking better lives abroad.

Freedom of movement and choice of occupation

According to the reasoning of John Rawls, individuals should have the right to choose both occupation and location of employment freely. Social structures can shape the preferences and steer the behavior of individual citizens. In cases in which social structures leave citizens few reasonable employment alternatives, it can be argued that their liberty has been infringed upon. The empirical data from the Philippines illustrate that many Filipino nurses work abroad out of desperation because there are no viable employment opportunities in their home country. Rather, it should be viewed as exercising their fundamental right to move without being entangled from the oppressive migration policies. The Universal Declaration of Human Rights (UDHR) affirms the freedom of movement as a fundamental human right, as stated here:

Article 13 on the right to freedom of movement

- (1) Everyone has the right to freedom of movement and residence within the borders of each state*
- (2) Everyone has the right to leave any country, including his own, and to return to his country.*

In a related manner, the 1987 Philippine Freedom Constitution acknowledges the right to movement in Article 2, Section 6, which states that “... *liberty of abode and of changing the same within limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.*” In consonance to the trend of labor migration as a national human resource development policy, Section 3 under Article 13 states that the State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. An enabling law was passed known as the Overseas Migration Act (1995), and its subsequent amended version of the Overseas Filipino Workers Act (2005), which carries a human rights-centered approach to migration. Note that the previously used term Overseas Contract Workers (OCW) changed to Overseas Filipino Workers (OFW), which can be taken as a signal for policy change in treating

labor migration not for purely economic objectives, but as a total human development framework. This legislative action conforms to the liberal tradition of the Philippines' constitutional democracy that caters to the emerging issues of overseas employment along with a stronger thrust on pursuing BLA as the precondition of opening future labor markets.

In addition to freedom of movement, Rawls includes the right to choose an occupation in the midst of diverse opportunities in his list of primary goods. Individuals should have the opportunity to form and revise their plans freely. States should promote rather than obstruct these opportunities of their citizens. UDHR also takes multidimensional aspects of work that it includes in a comprehensive list of rights as stated here:

Article 23 on the right to work

(1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work, and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

Rawls fails to discuss the status of human rights of migrant workers in his work, but it is the subject of debate in labor migration in recent decades. To Carens (2010, p. 115), every migrant worker possesses general human rights whether their resident status is permanent, temporary, or irregular. General human rights, as he would have called it, are rights that each individual should be granted within the jurisdiction of a state. This includes workplace rights on safe working conditions and protection from hazards. That is, the state cannot apply a different set of work standards to workers based on their residence status, whereby one group of workers is fully protected while another group is exposed to all forms of hazard.

The right to decent work is fundamental and expressed in the 1987 Philippine Freedom Constitution. First, the state affirms labor as a primary social economic force: "*It shall protect the rights of workers and promote their welfare*" (1987 Philippine Freedom Constitution, Section 18 of Article 2), and in conjunction, Section 19 states that "*the state shall develop a self-reliant and independent national economy effectively controlled by Filipinos.*" The state's general principles on labor and employment are further concretized in the 1974 Philippine Labor Code as well as adopting various international conventions about mandated employment standards that contracting parties must strictly implement in their recruitment process. These state principles that uphold Rawls' first principle of justice of equal liberty should be reflected in the BLA as a legally binding complementary local labor law. Additionally, decent work is of

paramount importance, which is frequently occurring advocacy in international accords on treating non-discrimination in employment and the enforcement of workplace safety standards in labor migration. With the Philippines' long-time experience of labor migration, decent work has developed into different policy actions concerning the better improvement of workers' rights, their working conditions, and lately, social inclusion in development

Wealth and income

While the question of a universal basic income is disputed, the idea that work should be remunerated and fairly compensated is non-controversial. Income is essential for individuals' chances of securing basic needs of shelter, clothing, and food that are needed. This becomes particularly important for those who start a new life as incoming migrant workers do. Whether income is an instrument to a good life or inherently valuable can be disputed. Clearly, income is considered as a basic right that an individual is always entitled to have, in exchange for services or products created. For this reason, a democratic society recognizes the right to the productive income of its citizens and extends the same to a foreign worker on the basis that it is a basic right of a human being. Consequently, the opportunity to move in a democratic state and obtain a work permit is a political responsibility of the state, which should extend the same protection in recognition of the set of human rights of every worker. On the contrary, paying a migrant worker substandard income is morally unjust when it favors providing higher pay for local citizens for the same amount of labor. It is also in congruence to the provision in the Universal Declaration of Human Rights, to wit:

Article 23 on the right to work

- 3) *Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.*

From the perspective of Rawls, the right to basic income and wealth must be sensitive to the minimum average of the worst-off individuals. One practical implication of the difference principle is a redistribution of wealth that favors the maximization of the welfare of the worst-off. While it allows for a greater degree of rewards to the skilled and motivated, the poor will be better off than they would have been with an equal distribution of income.

The social basis for self-respect

The deployment of migrant laborers has been challenging the core elements of humanity and the dignity of labor among overseas Filipino workers for decades. In 1995 the execution of Flor Contemplacion in Singapore fomented a collective national shame among Filipinos. It was felt that that the country had become a significant source of modern slaves (Aguilar, 2014). The collective disgust against labor migration could have been prevented if BLAs had been negotiated to primarily protect the human rights of overseas workers, and not just a facility for faster deployment abroad. Shame, according to Rawls, is connected to a person's self-respect and self-confidence in realizing his or her rational plan in life. Accordingly, self-respect or self-esteem is the most important primary good, and has two essential functions (ToJ, p. 440). First, it entails a person's sense of his value, his secure conviction that the conception of his good, his plan of life, is worth carrying out. Second, self-respect implies a confidence in one's own ability, so far as it is within one's power to fulfill one's intentions. Therefore, self-respect has both normative and psychological values.

In a well-ordered society, self-respect is secured by the public affirmation of the status of equal citizenship of all and the distribution of material means is left to take care of itself under the idea of pure procedural justice (ToJ, p. 545). Rawls argues that the basis of self-respect is connected to social union, or the condition when individuals are respecting each other, and each requires that their plans are both rational and complementary (ToJ, p. 441). Each member of a liberal society should recognize and value the roles and contributions of foreign nurses to the total functioning of the public health system. In turn, nurses find self-worth and confidence because of such public affirmation on the importance of their job for the stability of the society's health.

In terms of psychological value, self-respect has a direct connection with recognition in relation to work. Recognition at work provides a certain sense of dignity and self-worth to a person. Therefore, the importance of foreign-trained nurses should be stressed into both organizational and societal policies. At workplaces, the recognition of the migrant nurses' competence and dignity as human beings by their peers is of primary importance. In several of the studies cited in Chapter 1, discrimination and poor integration of migrant nurses in destination countries contribute to their low job satisfaction and self-esteem at work. Hospital management should promote diversity and a welcoming work environment as a way of recognizing the worth of foreign workers. At the societal level, recognition of a nurse's contribution to destination society's overall health conditions must translate into retention

policies and improved overall conditions of the public health system. Destination governments' failure to achieve quality health care frustrates the self-esteem of local nurses as a professional class, and even worse, dissuades younger generations of nurses to pursue their career. This lack of a societal recognition of the nursing profession has a negative impact on sustaining a reliable health workforce.

At a minimum, all civil liberties should be recognized, and the deliberative process within the basic structure should be used as a method of prioritization of these liberties. At first, the principle of equal liberty may appear too abstract. However, this becomes concrete once the complementary role of the second principle of democratic equality is realized. It brings out the procedural character of prioritization in a constitutional framework of liberal democracy. In his later work on *Idea of Goods and Basis of Social Unity* (1982), Rawls explains that because of the multiplicity of primary goods to choose from among the representatives, an institutional framework that acts as basis for social unity and cooperation is required. This can only be done by no less than through a liberal type of constitutional framework.

1.2 Principle on Democratic Equality

According to Rawls (ToJ, p. 61), the second principle of democratic equality applies to the distribution of income and wealth and to the design of organizations that make use of differences in authority and responsibility, or to chains of command. In allowing for the inequalities in social and economic positions, the basic institution must work for everyone's advantage and the positions of authority and offices of command must be accessible to all. In a restatement, Rawls (JAF, p. 42-43) constructs the second principle of justice to satisfy two conditions:

- 1) *They are to be attached to offices and positions open to all under conditions of fair equality of opportunity;*
- 2) *They are to be to the greatest benefit of the least-advantaged members of society (JAF, p. 42–43).*

These conditions are to be arranged in serial order with the first principle prior to the second. The ordering means that a departure from the institutions of equal liberty required by the first principle cannot be justified by, or compensated for, greater social and economic advantages. The distribution of wealth and income, and the hierarchies of authority, must be consistent with both the liberties of equal citizenship and equality of opportunity (ToJ, p. 61).

Hence, the principle of democratic equality immediately takes effect in the negotiation process of a BLA after the equal liberty principle has been well established. The second stage requires a procedural justice that facilitates the fair distribution of resources in two ways: the fair equality of opportunity and difference principle. In addition to being lexically ordered, the principles behave in an integrative manner, which means that they reinforce each other. That is, one principle cannot be effectively done if it lacks the other. The integrative process of the principles of justice strengthens the stability of the BLA as a domestic policy for migration. Applied to BLAs, the policy becomes sensitive to the inequities or disadvantages sustained by the worst-off individuals. The regulation of distribution of resources available to them can only be performed by the attached offices within the basic structure of the liberal constitutional framework. To Rawls, the restriction of civil liberties is allowed, particularly those that are of lesser value relative to the basic civil liberties (ToJ, p. 244; JAF, p. 46-47). Moreover, this restriction can be facilitated only by a fair procedure within the constitutional framework of liberal democracy (ToJ, p. 203), which will be complemented by the difference principle to be discussed in the last section.

The Principle of Fair Equality of Opportunity

The first part of the principle of democratic equality is the fair equality of opportunity principle. This principle highlights the important roles of public offices within the basic structure of a liberal society, and the people running it, in ensuring the fairness of available opportunities to all. The first component of the main principles of justice highlights how the abstract principle of equal liberty is translated, first as a product of a legislative process, and second, as an implemented policy. Some of these actions are derived from either locally enacted laws or those that are adopted from legally-binding international agreements. By integrating equity provisions in the BLA, the exploitative arrangements that are often seen in a variety of guest worker programs can be avoided. Ypi (2016, p. 152 -153) identifies three theories of exploitation in the context of migrant work. The theory of domination highlights the tendency of exploitative labor arrangements concerning foreign guest workers. Their political rights and economic are not duly respected for the reason that they lack residential status. An alternative explanation is the egalitarian theory that states that a guest worker is being exploited due to the unequal distribution of benefits for the amount of work performed in similar conditions. A third perspective is found in the sufficientarian account on the exploitation of guest workers. According to this perspective, they operate in a market that fails to reward their labor with

sufficient access to the resources they need to lead a decent life. If prospective guest workers struggle to subsist and accept employment offers just because they cannot afford to reject them, desperation makes them vulnerable to being taken for unfair use. Although these views on labor exploitation differ, they all point to the global institutional arrangement in need of regulation. The principle of fair equality of opportunity can address these institutional arrangements through a fair procedural undertaking. The following is a list of migration policies that can be part of the regulatory mechanism in the BLA for the purpose of redistributing resources fairly by concerned public offices.

a. Equal pay for equal work

The principle of equal opportunity requires fair remuneration of productive work for migrant nurses and their local counterparts. The principle of non-discrimination is an intermediary principle that also commands equal treatment at the workplace. A democratic state must protect the universal human rights of all individuals, and this should include the principle of the right to equal pay for equal work. The difference in the pay scale between a local nurse and a foreign nurse can only be allowed on the basis of years of experience, level of clinical skillsets, and other competencies acquired through continuous professional education. A difference in treatment cannot be justified on the basis of nationality. A gap between locals and migrant workers based on gender or residence status is morally unacceptable. Nurses are commonly considered as guest workers. Following the suggestion of Ypi (2016, p. 173), guest workers should be seen as a collective, also known as working class, who share similar conditions of being forced to accept low wages within an institutional global market for cheap labor. Officials who participate in negotiations of BLAs should recognize the value of health professionals and ensure a fair compensation schedule based on the worker's individual qualifications and level of experience.

b. Health and other social protection support

The BLA is a labor migration policy that requires civil liberties are respected such as freedom of conscience and thought, movement and choice of occupation, decent work, and productive income. Rawls did not include health as a basic primary good. However, migrant nurses should receive equal treatment in term of access to health care. And with that comes the opportunity to contribute in the national health social insurance scheme, and thereafter, benefit from its universal coverage. Access to social health insurance is a widely recognized basic

human right among liberal societies. Furthermore, nursing, or any healthcare job for that matter, risks a high exposure to health hazard. For these reasons, a health insurance package should be available that protects nurses. It is morally unacceptable to exclude migrant workers from access to quality health services for reasons of their residential status. It is even more unacceptable to exclude them from accessing health care services since they contribute to national financial coffers that fund health programs, both directly and indirectly through paying taxes. Whether or not migrant workers should be covered by the destination country's social health insurance is a contested matter. Still, the principle of equal liberty trumps an argument that the destination country is facing economic burden. The economic burden is passed on to the countries that are parties in a contract agreement. The right to health protects the quality of life and enables the full functioning of both the physical and psychological state of a human being. Ultimately, it safeguards the individual's opportunities. The Alma Ata Declaration of Primary Health Care and the Universal Health Coverage are positive developments in global policy action in support of the Universal Declaration of Human Rights stated here:

Article 25 on the right to health

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Recent studies on the health status of migrant workers provide a compelling reason to include access to health care as part of the main provisions in the BLA. In previous cases, several low-skilled migrants, such as construction workers and house helpers, are turned away from availing medical services (Ruiz and Rannveig, 2008). They may have to pay out-of-pocket because of the limited rights granted to temporary residence status. It is recommended that there be policy discussion on the matters relating to migration. Health should account for the complexity of the health vulnerabilities of migrants at every stage of the migration cycle: pre-departure, in transit, at destination, and upon return (Calderon, Rijks, and Agunias, 2012). At present, the Philippine Health Insurance Corporation, a state-funded health insurance agency, has made it compulsory for all Filipino migrant workers to be enrolled in the universal health package that also extends the benefits not just for them but to their dependent families as well

(Orbeta, 2011). There must be a counterpart institution that provides the same social health insurance to migrant nurses in countries that will be hosting them. The state of health is an essential element for their productive activities, and more importantly, in maintaining the integrity of well-being.

Daniels (1996, p. 189) argues the case of the right to health as a social good based on Rawls' principle of fair opportunity. Central to his argument is the need to extend the list of basic primary goods and include access to health care as an essential responsibility of distribution among institutions. He makes a normative claim that we ought to subsume health care under a principle of justice guaranteeing fair equality of opportunity. In line with Rawls, a promising strategy that Daniels (1996, p. 191) has advocated is that of including health care institutions within the index primary goods as among the background institutions involved in providing fair equality of opportunity. The theory of justice eliminates the differences in the social positions among persons and neutralizes the effect of natural disadvantages. The fair allocation of health resources can be an important contributor to attaining fair equality. In turn, it attains the goal of justice, which is to achieve normal functioning of individuals and of stabilizing the background condition.

Concomitant with health support, other forms of civil liberties can be granted in the BLA, that is if the government of the destination country may voluntarily accommodate. For example, migrant nurses are preparing for retirement in the long term, a co-payment system in the national pension fund between nurses and their employers can be agreed upon in the BLA. Country-governments can also explore a social security arrangement that allows the portability of pension benefits in case the nurse wants to return home for retirement. In a liberal society, social security is an extended good arising from the right to occupation. Productive labor should not only secure the present circumstances of a healthy working individual, but also covers the long-term need during retirement that should still be an enjoyable life period as the integrity of well-being is maintained. Equal treatment to universal social pension coverage is important as migrant nurses prepare for a comfortable retirement, as do the other social pensioners of their host countries. Depending on their plans for retirement from productive work, migrant nurses can opt for possible return migration where they can start building up their lives as retirees. This idea correlates with Rawls' principle of savings within which he propagates a sufficient amount of wealth to be created by the state in planning for the future (ToJ, p. 285-292). The portability of social security arrangements between countries can be assessed, and this makes the role of public offices in the basic structure important. They should satisfy the second principle of equal opportunity. In the latest development, the Philippines' Social Security System Act of 2019 was

passed by the legislature for a mandatory requirement among employers of migrant workers to pay for their social security contributions and make them eligible for a long-term retirement pension.

Finally, BLA can also create a progressive path to citizenship and reunification of families to assuage the physical and emotional separations experienced by families of migrant nurses, particularly the left-behind children discussed in the introductory chapter. These additional social support services are primary goods critical to the well-being to migrant nurses. To the extent that they have chosen to anchor their lives in a country for a long time and have contributed taxes and social security, it is the responsibility of the state to grant them the fullest liberty that a human being can attain. The right to family reunification can be granted within the recognized capacities and constraints of host countries.

c. A fair recruitment model

Fair recruitment pertains to the standardized procedure of hiring that eliminates barriers to unfair access to opportunity. Currently in the Philippines there are at least three legal models of recruitment for the overseas deployment of migrant workers (Zhou, 2017). The Volume-based Model is driven by the profit of high-volume recruitment. This model does not satisfy the protection of basic human rights. The Better Recruitment Model is an improved version but is more focused on high skilled deployment. Both models do not meet fair recruitment policy as they disregard the pure procedure of justice. Finally, the Fair Recruitment Model addresses a wholistic human-rights centered deployment with due attention to pre-departure orientation. In this scheme, potential migrants must be fully informed of their rights as well as culturally prepared to work in a totally foreign environment. Integration mechanisms follow in the second stage, which includes the provision of basic primary goods like enforcement of work and employment standards, health and social security insurance, family support, and reintegration plans. The model also recommends the gradual phasing out of the old corrupted system of collection for job placement fees from the migrant worker and passing the burden of payments to their hiring employees. Zhou (2017) also adds the language preparation and cultural competency as other important fair recruitment policies that directly address common integration barriers among foreign-trained health workers.

In its 328th Session, the Governing Body of the International Labour Organization authorized the publication and dissemination of the General Principles and Operational Guidelines for Fair Recruitment adopted by the Meeting of Experts on Fair Recruitment (ILO,

2016). The local adaptation of ideal fair recruitment for the Philippines has the force of a presidential directive with the imposition of Administrative Order No. 246 s. 2018, and the Philippine Bilateral Labor Agreement Model, through the Department of Labor and Employment (2018).

d. Professional exchange programs for skills upgrading and training

Several international organizations have been pioneering exchanges of highly skilled people from the US and Africa. In one of the professional mobility models of the Global Health Corps (Gupta, 2015), US professionals work in various organizations in Africa to improve various challenges in the African health system. African professionals work in the US to share and gain expertise in many intersections of public health work. The point here is that inefficiency is not solely a problem of lacking human resources for health but the lack of a public health system that includes a variety of professionals. Most important is the need for an upgrading of specialized skills and state-of-the-art technology in hospital care for advanced types of diseases. Taken together, a country like the Philippines that is a positive net producer of nurses will fill in the human resource for health gaps of destination countries. In return, the latter will share their expertise in improving non-human resources for health assets in the resource-challenged Philippines.

Helen Kirk (2007) argues that instead of brain drain, the global migration of nurses can be alternatively viewed as an opportunity to create a flow of skilled and knowledgeable healthcare workers between countries. There is an accumulation of knowledge in the long term as the financial benefits of migration filter down to local healthcare systems. She furthers the view that the potential return migration of its nationals carries added value in that they can share with others their acquired advanced skills and experiences. It is believed that workforce mobility, which is a major consequence of globalization can, if managed, facilitates a sharing of experiences and knowledge that enriches individuals, patients, organizations, and countries. From this, it is useful to broaden the linkage of nurse migration to national development, and the following areas of cooperation that can be prioritized.

e. Return migration and reintegration plan

There are different personal and socio-political factors of why migrants return home. Regardless of their circumstances, returning migrants are entitled to their social and political rights as citizens of their country of origin. However, among temporary migration arrangements

in the Middle East and Asia, it has been noted that returning migrants have different needs when they return to their country of origin. Upon their return, the ILO (2019, p. 13-14) has identified issues and challenges of returnees including the stagnant home economic situations, inadequate and ineffective employment services, lack of information on social services and programs, an absence of provisions for skills certification and recognition, poor social protection coverage, and stigmatization. However, Go (2012, p. 12) observes that the returning workers have been of less concern to the Philippine government for the longest time, and reintegration services have been the weakest component of its overseas employment program since 1975. Legislative measures to promote and provide support services have since evolved following the creation of the National Reintegration Center for Overseas Filipino Workers in 1995. Recognizing the role of return migration to the national development agenda, the Migrant Filipino Workers Act of 2010 rationalizes the policy and institutional support mechanism for the effective reintegration of returning migrant workers. For high-skilled professional migrants, the *Balik Scientist* Program (roughly translated as Returning Scientist Program) offers opportunities for foreign-based Filipino scientists to strengthen and accelerate the flow of scientific and technological human resources available in academic, public, and private institutions. Since its inception in 1975, the program has provided benefits and incentives for any returning scientist, engineer, or researcher in conducting research and imparting their expertise in local host institutions, giving lectures or mentorship, or leading research and development in top priority areas (Opiniano and Casto, 2006). The health sector is one of these priority areas of the *Balik Scientist* Program that seeks to promote collaborative work on healthy lives and health resiliency in the Philippines. In Chapter 6, return migrants are considered as existing assets that can be utilized by destination governments in carrying out the duty of assistance within the BLA.

Like all migrants, nurses have goals, and returning home is sometimes one of them. Therefore, a return migration framework is a viable option for consideration in the BLA to accommodate those returning nurses who want to pursue their careers abroad for various reasons (Go, 2012). The quality of their experience and exposure abroad will help upgrade the state of nursing practice. Arguing from the perspective of human rights, it is unreasonable for the state to restrict the movement of nurses to countries where they can thrive professionally and achieve gainful employment. Brain circulation may give space for greater international health cooperation – a systems approach that connects each government to have better-coordinated human resources for health planning, and other related areas such as sharing of technology and knowledge, and training and development. It encourages individuals to pursue professional growth by acquiring technical competencies as well as experience in their preferred destination

countries. It can be argued too that brain circulation strengthens the goal of global health equity, by which countries with well-endowed health resources can help in scaling up health systems in low-resource countries through innovative ways, not necessarily in human resources but in areas like digital health technology and medical research.

f. Joint monitoring and reporting mechanism

Strengthening institutional cooperation is key to the success of implementing BLAs, particularly in achieving the dual purpose of operational efficiency and equity in the health system. It is also worth noting that the WHO Code of Practice institutes a governance framework for information sharing, monitoring, and implementation as a way to democratize the participation of all stakeholders in the governance process framework for global health infrastructure (Taylor *et al*, 2011). Recent studies have shown that the presence of an active institution is vital for continuous monitoring of the progress and strict compliance with the agreements reached in the BLAs. Siyam *et al* (2013) report three major implementation bottlenecks of the WHO Code of Practice that all point to the institutional capacity of governments. First, there is poor coordination between government offices and concerned private sector agencies in the overarching aim of the code for health workforce sustainability. Connel and Buchan (2011) explain that the non-binding character of the WHO Code of Practice and the absence of performance incentives for governments and stakeholders are reasons for its non-adoption as policies. Second, the lack of reliable data on the migration of health personnel hinders reliable forecasting and human resources planning. Tangcharoensathien and Travis (2015) cite the unavailability of information from the source countries in Southeast Asia as a common challenge for monitoring the progress of the WHO Code of Practice. Paina, Ungureanu, and Olsavszky (2016) echo the same observation on the data gaps on migration of health personnel in Romania, which limits the creation of a platform for information exchange with the European Union and civil society organizations. Third, the lack of information dissemination concerning the WHO Code of Practice suggests a critical gap between policy advocacy and the level of awareness among intended stakeholders. Tam, Edge, and Hoffman (2016) show that only 60% of the respondents are aware of the WHO Code of Practice and 86% have reported no significant change in recruitment policies in their respective offices.

Once the issues on data transparency and concrete policy guidance are addressed, health workforce planning and management will be optimized in any bilateral agreement. There must be a mutual agreement for joint monitoring and evaluation of the compliance of the standardized

procedure for recruitment, deployment, integration and reintegration. The administrative structures built in to facilitate BLA have to implement monitoring and evaluation tools for areas of forecasting demand and supply of needed types, skills, or specialization of health personnel. Partnership in reforming the labor market is solidified through intergovernmental data sharing. It will be valuable in informing future programs and policies that countries may pursue together on health workforce development.

The Difference Principle

Glinos (2015) analyzes the effects of BLAs in health inequities at the varying levels of health governance – regional, origin, and destination states. The study leads to the conclusion that the risks identified, sustained by poor origin countries, in the free movement of health workers to the European Union call for greater emphasis on the principles of efficiency and equity in any labor mobility arrangement. Pariyo and Lucas (2019, p. 130) reiterate the same concern for equity as there are unavoidable or remediable differences in the access and quality of human resources for health between origin and destination countries. Rawls' difference principle promotes this end, and as a domestic policy. BLA must be carefully negotiated based on the present context of nurse migration and its future implications to the worst-off population. The ideal BLA assures fair treatment of migrant workers based on the first principle of equal liberty, and the second principle of democratic equality will need an institutional framework to satisfy the principles of efficient distribution of resources. The principle of democratic equality strikes a balance between the rights of individual migrants, the public health need, and the economics of efficiency. The difference principle addresses the nuances in the adverse effects of labor migration. For instance, it tackles the distribution of primary goods like health care to the vulnerable segment of the left-behind population. In the process, BLA moves from an individual-centric to a statist-centric policy that pays attention to inequities that the migration of nurses will create. Hence, public offices will play a central role in the distribution of resources *in lieu* of fulfilling the principle of equal opportunity.

According to the difference principle, the inequality in life prospects is justifiable only if the difference in expectation is to the advantage of the representative man who is worse off. Rawls illustrates the application of the difference principle as an institutional framework for distributive justice:

“The difference principle removes the indeterminateness of the principle of efficiency by singling out a particular position from which the social and economic

inequalities of the basic structure are to be judged. Assuming the framework of institutions required by equal liberty and fair equality of opportunity, the higher expectations of those better situated are just if and only if they work as part of a scheme that improves the expectations of the least advantaged members of society. (ToJ, p. 78)”

The intuition is that the social order is not to establish and secure the more attractive prospects of those better off unless doing so is to the advantage of those less fortunate (ToJ, p. 75). Specifically, health workforce development is the main concern in satisfying the difference principle in putting BLA as a primary mechanism for labor migration. As a basic primary good, the 1987 Philippine Freedom Constitution is explicit that health is a constitutional right for every Filipino: “... *the State shall protect and promote the right to health of the people and instill health consciousness among them*” (Article 2, Section 15). Among its liberal aspirations, the framers of the constitution include health as an essential need to support the full functioning of human rationality and sustain total well-being in the whole life course. In support of this, the following policy is emphasized: “... *the State shall adopt an integrated and comprehensive approach to health development which shall endeavor to make essential goods, health, and other social services available to all the people at an affordable cost*” (Section 11 of Article 14). In the succeeding section, it is further stated that it expects the State to establish and maintain an effective food and drug regulatory system and undertake appropriate health manpower development and research, responsive to the country’s health needs and problems. From these state declarations, it is clear that the liberal principles of justice have long been an imprint in the constitutional framework of the Philippines’ liberal democracy.

But despite a gradually thriving liberal political culture, the country continues to be a burdened society with nearly a quarter of its population now living below the national standard of poverty line at 16.7% (Philippines Statistics Authority, 2020). This glaring disparity is more telling in the current national health accounts. Life expectancy has been unchanged for two decades, from an average of 70 years old in 1999 to a slight increase of 73 years old in 2019 (Philippine Statistics Authority, 2020). National health spending is pegged at only a meager share of 4.7 % of the total Gross Domestic Product, while 57 % of this total spending is considered to be a personal out-of-pocket expense. The most intriguing paradox can be found in the health workforce. Since its first enactment in 1915, the Philippine Nursing Act has been amended on several occasions in such a way that it continuously seeks to improve the practice, regulation, and development of the nursing profession. As pointed out several times, it has been producing tens of thousands of nurse graduates each year and become a significant net exporter

to other countries with a perennial shortage of hospital staff. However, a considerable segment of the left-behind poor population in the Philippines is the hardest hit of the continuous outflux of locally trained nurses. The situation that depicts an oversupply of nurses coupled with poor health among the population is hard to reconcile until one looks deeper into the roots of the problem of the health system.

The distribution of human resources for health, which favors urban areas over rural provinces, simply says that it is a problem of allocation inefficiency of the health department. This inefficiency is further aggravated by the geographical challenges such as inaccessible mountainous villages, disconnected far-flung islands, and low cultural acceptance of modern medicine, as 13 % of its population belongs to the marginalized indigenous communities (Dayrit, 2018 p. 224). Admittedly, these issues cannot be resolved by adequate human resources for health alone. Support for increased investments in health technology, an innovative local health system, and an expanded pool of technical health experts are also vital.

The difference principle guides the crafting of the BLA by providing an enabling environment in meeting these gaps through technology-sharing from experts based in all parts of the world, adopting health informatics from developed countries for effective service delivery in low-resource settings. Moreover, the need for scientific engagement through joint research missions of medical schools has been identified. Areas of collaboration can be explored in the often-neglected tropical diseases and non-communicable diseases. The difference principle regulates the equitable distribution of resources such that all of the initiatives agreed upon in a BLA should favor the left-behind population, who are disadvantaged by the health workforce crisis.

At present, the dynamics of education-labor market framework analysis is offered as a policy solution for achieving a sustainable health workforce as part of the Universal Health Coverage (UHC) agenda. On one side is the education sector being the source of production of nurses and other health professionals. At the same time, it is the labor market that absorbs the pool of trained workers in the mainstream health workforce. In Diagram 1, Sousa *et al* (2013) show the combination of the supply and demand sides between the education sector and labor market, which provides a comprehensive analysis to be known as the health labor market framework. The aim is to fully understand the forces behind health workforce supply and demand and make it possible to develop effective health workforce policies for the attainment of UHC.

In practice, the health labor market analysis seeks to inform and shape key factors affecting the demand and supply in order for health workers to best meet the population's health

needs. It also offers systematic approaches to generate, track, and forecast health workforce supply and demand vis-à-vis health workforce needs. In parallel effort, the WHO Labor Market Observatory focuses its technical support on crafting a country's health workforce planning in the following areas: fiscal space analysis, workload analysis, strategic planning, return on investment analysis, workplace projections, feasibility studies, and primary data collection (WHO, 2017). The end-in-view of health labor market analysis is to provide inputs that will justify the investment and reforms required to achieve the right number and mix of health and social care workers and ensure that they possess decent work and the means and motivation to perform the assigned functions skillfully.

Diagram 1: Sousa, et al, 2013. *A comprehensive labor market framework for universal health coverage*

In contrast to the health labor market analysis, the right to healthcare is central to the exchanges of perspectives between Martha Nussbaum and Norman Daniels in a report commissioned by the World Health Organization (2002). The report concerns the need for policies for long-term care, which also touches upon important aspects of health professional mobility. Both authors agree that expanding the right to health as a Rawlsian primary good is

essential, but Nussbaum challenged the limits of the equality principle as the main normative idea in healthcare provision, and stressed the need to consider how the real background conditions obstructing equal opportunities. Conversely, Daniels (2002) believes that any foreseeable inequities in health can be regulated within the basic structure to look after the left-behind population. He stresses to the custodial role of attached offices, ideally run by competent citizens, within the basic structure of society. This regulatory body should that ensure opportunities are equally distributed and that there are safety nets for those individuals who are grossly disadvantaged by natural limitations or simply bad luck. As shown in Diagram 1, however, it can be said that evidence-based planning is central to attaining a sustainable health workforce, and the health labor market analysis gives important inputs.

Achieving optimal efficiency is the primary aim in the allocation and distribution of human resources for health. It makes sense if the health workforce is unidimensional and makes no reference to the issue of justice – but will it address the created inequities faced by the worst-off segment of the population? Rawls' difference principle addresses the lack of ethical concerns in the health labor market analysis. The aim is not to reject the entire health labor market analysis model, but to add justice as a main guiding principle in evidence-based health resource planning. An emphasis on the principle of equal liberty in health workforce planning underscores what is needed to achieve an equitable distribution of health workers as part of the Universal Health Coverage agenda. It also gives due consideration to the personal and social costs of migration of nurses, as described in the previous chapter. These aspects cannot be accounted for in the standard health labor market analysis alone.

To synthesize the constructivist approach to BLA negotiations, the principle of democratic equality reinforces the principle of equal liberty, and in turn, makes the basic structure stable with the continuous deliberative process of democratic participation. In the end, the ideal political construction of the BLA to serve as the basis for external negotiations has been met.

2. TOWARD A NON-IDEAL THEORY OF BILATERAL LABOR AGREEMENT AS A FOREIGN AFFAIRS POLICY

In the earlier part of this chapter, it is argued that the current practice of negotiating BLAs lacks ethical consideration and needs commitment to principles of equal liberty and fair equality of opportunity. An ideal construction of a BLA is offered that should set the parameters for reforming the current structure a labor migration from a non-ideal standpoint under the larger

political arrangement of the Society of Peoples. Note that even in a non-ideal scenario, Rawls requires a political conception of the main principles of justice as a basis for the construction of a liberal foreign policy for well-ordered societies. Therefore, the attempt to reform the current practice of BLAs in a non-ideal situation can be seen as a feasibility test under partial compliance in the case of a burdened society. In Chapter 7, adopting the ethical parameters of negotiating BLA becomes complicated as I unravel the different bilateral relationships prevailing between nations, which can be described as a meshing of diplomatic relations among liberal, decent, benevolent absolutist, and outlaw societies. Nonetheless, as a domestic policy instrument, the idealized BLA acts as a moral guide to spell out the liberal objectives of a burdened society's foreign affairs to each of these types of societies.

2.1 Liberal foreign policy

In *A Theory of Justice*, Rawls prefers not to discuss the principles governing the conduct of nations. This was so far the reason that he was focused on the basic structure as the primary subject of justice. Later, in the *The Law of Peoples*, he extended the political construction of justice by providing general principles for liberal societies for fair cooperation schemes and reciprocity in the mobility of peoples. In ideal theory, Rawls prescribes general principles of justice, and among others, the principles of independence and equality of liberal states have considerable bearing on the construction of morally permissible BLAs.

While the Philippines is a burdened society, it has maintained a culture of amity, on top of promoting democratic liberal values, with other nations as explicitly defined in its state policies for foreign affairs, which reads:

The Philippines renounces war as an instrument of national policy, adopts the generally accepted principles of international law as part of the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

Article 2, 1987 Philippine Constitution

This pacifist foreign policy statement retains the spirit of the earlier version of the 1935 Commonwealth Constitution, in which the Philippines renounces war as an instrument of national policy and adopts the generally accepted principles of international law as part of the domestic law. The same principle was upheld under the 1973 New Society Constitution but also

added general principles regarding adhering to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.

Adherence to international treaties and conventions that promote human rights in labor migration can bind liberal societies together. In history, BLAs have been successfully negotiated primarily because of their shared commitment to socio-cultural and economic values (Chilton and Posner, 2017). The ILO has passed several conventions that contracting states can take cognizance of in drafting the terms of the contract of their BLAs. On this note, the BLA can take precedence in promoting decent work for global nurses within the framework of the ILO Model Agreement on Temporary and Permanent Migration for Employment. In addition, the ILO Resolution 86 on Model Agreements include 29 indicators of fair recruitment procedure, and all of these will be considered in upholding the main principles of justice. The ILO Model Provisions for the Maintenance of Social Security Recommendation 1983 (No. 167) provides a model for continued social support services upon return to their home of origin. While the United Nation's Convention on the Protection of All Migrant Workers and Members of Their Families addresses concerns of reunification. At the very least, the contracting government can follow ILO's Migration and Development Cooperation Framework, which prescribes an origin country to craft a framework that includes reliable management and information system, auditing, and forecasting of human resources for health needs, and a strategic plan toward sustainable health workforce. In the process of negotiation, BLA becomes a foreign affairs tool that brings out the state's interest in addressing inequities created by the potential brain drain of essential health workers.

2.2 Duty of Assistance

Consistent with Rawls' *A Theory of Justice*, a non-ideal route is offered as an alternative to reforming the structure of migration. I previously sought to deepen the ethical parameters of the fairer terms of BLAs based on the principles of justice with the end-in-view that it can improve the mechanisms of the deployment of nurses as envisioned in the WHO Code of Practice. However, the recasting of the non-ideal theory of negotiating BLA needs further theoretical refinement to transcend inter-state boundaries. It must be forward-looking in the exercise of political responsibility to reform the migration policies for global nurses. In the next chapter, the need for political responsibility is articulated to address injustices in the current forms of BLAs. I present a case for a transitional justice where a burdened society negotiate fair migration structure. Despite many limitations, a burdened society has an inherent moral capacity

to protect liberal values and move toward an ideal situation. It is not just a hypothetical assertion, but one based on empirical evidence.

The DoA can be put to use by well-ordered societies and do more if their net benefit far exceeds the gain over their relationship with burdened societies. Under their political responsibility, each of the states has a responsibility to reform the health workforce infrastructure while remaining aware of the socio-historical facts of the structural injustices in the global migration of nurses. Moreover, their political responsibility should be more focused and targeted if there is an evident historical injustice for which the destination country is responsible. If this is pursued, a recasting of current practices of BLA should respond accordingly to the essence of liberal democracy. It follows then that their respective citizens shoulder that political responsibility in pointing out several of these gaps in negotiating for fairer BLAs. The next chapter shows how it should be done.

BLAs can still be pursued in strict compliance with the main principles of justice to correct prevailing injustices. BLAs will certainly not address the structural injustices, but it is a vehicle toward a long-term goal of easing the outmigration of nurses and the commodification cycle of care work. The ideal society for them is a basic structure that facilitates the flourishing of civil liberties, particularly the freedom to choose profession, mobility, and creation of income and wealth. However, moving toward that ideal scenario requires a substantive commitment to the political responsibility of reforming the current practice of BLAs. Therefore, a forward-looking policy is necessary to ensure that the BLA will be sensitive to the principles of justice. An ideal contract agreement will be the moral compass to a fair migration structure.

Chapter Six

Duty of Assistance as Political Responsibility in Negotiations of Bilateral Labor Agreements on Nurses

This chapter suggests an ethical framework for negotiating development assistance cooperation, which is identified as a significant aspect of obtaining fairer terms in BLAs. I argue that development assistance needs a stronger normative basis in order to become an integral part of BLAs mutually agreed between contracting countries. Taken from John Rawls' theory of international justice, or what he calls *The Law of Peoples*, my task in this chapter is to apply the duty of assistance (DoA) as the basis for shared political responsibility as a tool to manage the health inequities created due to the migration of nurses. BLAs are not only matters of internal governance of migration centered on the management of territory and maintenance of work and welfare. External dimensions of migration and asylum have strong domestic or internal motives (Geddes, 2008, p. 182-183). In this chapter, responsibility for origin countries that suffer from mass outflux of nurses is identified and the question on how to assist them in their suffering is addressed. First, empirically relevant data on development aid transfer from the Philippines is presented. Against that backdrop, Rawls' DoA is applied to the context of health worker emigration from the Philippines with the aim of exploring if developed nations have a duty to assist the Philippines with regard to the disproportionate outflux of skilled health workers. Toward the end I use the DoA to support an asset-based approach to public health as a potential area of development cooperation that contracting parties of BLA negotiation can explore.

1. DEVELOPMENT ASSISTANCE AS POLITICAL RESPONSIBILITY

The BLA should not be viewed as a stand-alone policy on fair ethical recruitment of nurses, as this type of policy also acts as a mechanism to ensure the safety nets for the worst-off population in allowing the migration of nurses. The provision of development assistance in the BLA responds to the health inequities that countries of origin may suffer. More often than not, the nature of development assistance in BLAs is framed as charity rather than as a DoA. As a migration policy instrument, BLA is foremost expressed as a domestic political responsibility rather than as a moral obligation to help in natural calamities or human-induced disasters. The principle of DoA is a requirement for the international domain that can serve as the basis for

shared political responsibility between contracting countries. In the particular context of health worker emigration, the primary objective is to mitigate the harmful effects of the exodus of health workers from the public health services in origin countries like the Philippines. Typically, this emigration leaves already underprivileged nations in a precarious situation.

1.1 Development assistance in BLA is neither charity nor humanitarian work

This section explores the meaning and function of Rawls' DoA to be carried out in relation to an escalating outflux of skilled health workers from underprivileged nations. I specifically highlight the conditions under which a state is obligated to carry out the principles of extending development assistance. Health development assistance is one aspect of the employment conditions that are negotiated in BLAs. Here, the task is to articulate the specific objectives of development assistance from the perspective of Rawls. Obstacles to the enforcement of such duties have been recognized and will be considered in this section. I will describe the relevance of DoA in connection to the BLA, and what BLA may mean. Importantly, it is neither a charity nor strictly a humanitarian action.

Currently, affluent member-countries of the Organisation of Economic Cooperation and Development are the major contributors to development aid (OECD, 2020). Even with notable progress regarding development assistance, aid transfers have been criticized by development scholars due to reported irregularities surrounding the delivery of financial aid (Gaspar, 1999). Development ethics has sprung from the ambition to offer a normative analysis on the obligation of international development aid. Gaspar (1999) teases out an ethics of international development aid as a response to corruption scandals that have surrounded aid transfers for decades.

Charity is generally understood as acts of giving voluntarily to those in need and has been a central principle to aid (Gaspar, 2012). But charity is an insufficient moral basis of an account that spells out both the obligations of the donor and the right of the recipient countries. A charity can demean the recipients of their right to demand the things they need. In the same manner, the closely related concept of philanthropy emphasizes only the values of self-improvement through self-disciplining and partial renunciation. Therefore, the ethical basis of aid must connect with the roles that bind obligation beyond endless giving and responsibilities that account not just for good credits but also the results. It has been noted that charity has a distinct character that stands in stark contrast to the obligation involved in development aid (Gaspar, 1999). Charity does not

entail liability for the harm it may create. In contrast, accountability can be expected from agents responsible for potential negative implications of development aid.

Following Peter Singer's *Famine, Affluence, and Morality* (1972; 2016), or the so-called Singer's solution to global poverty, affluent states are held responsible in rectifying the perennial issue of global poverty. For the reason that humanitarianism differs from charitable action, the duty to assist stems from an individual's capacity to prevent harm without thereby sacrificing the moral worth sought. As a short-term response to the immediate needs of innocent people whose lives are threatened as a consequence of an anomalous event, humanitarian aid has become the central theme in the expanding development aid program of major donor-countries in recent decades (Jamieson, 2005).

The relevance of charity in shaping the fair terms of negotiating development assistance as a major part of the BLA appears to be theoretically relevant but of less significant application. BLA cannot be a form of charity, but it can carry out humanitarian principles in a specific context such as emergency response in disasters. However, it may lack an important element of political responsibility. Take the case of global health diplomacy. It is grounded on humanitarian considerations but emphasizes the political dimensions of health inequities that are taken as a form of responsibility for alleviating pain and suffering of people's lives. Often undertaken as a bilateral partnership, different types of health assistance are extended to countries with severe problems of combating malnutrition, HIV and AIDS, and other so-called diseases of poverty. Political responsibility is duly exercised when there is a measure in place for mitigating potential harm, mainly when it takes a systems-wide approach to health sector reform. The same principle also works in negotiating for BLAs in putting in safeguards to cushion possible adverse effects on the already fragile human resources for the health system of the country of origin. Therefore, development assistance in BLAs has a humanitarian objective but firmly is committed to shared political responsibility in maintaining the stability of the health workforce of the origin country.

1.2 Development assistance as a form of compensation

The health workforce crisis is a morally problematic situation being created by the migration of nurses from poor countries. Therefore, it is fair to ask for compensation in the form of development assistance. Taxation, as a form of compensation from those migrating skilled professionals, has been proposed in the past to weigh in losses from brain drain and the migrants' opportunity to prosper in their profession. Taxation is also suggested in response to

the emerging nature of modern migration in an increasingly interdependent world (Bhagwati and Dellalgar, W. 1972; Bhagwati, 1976). The Bhagwati tax proposal can potentially generate billions of dollars in revenues from the increasing number of immigrants in the United States by levying a 10% after-income tax. In turn, all revenues collected will be channeled through the United Nations system as the major development arm in implementing programs that will benefit countries with a higher number of skilled worker immigrants. In a similar study, the same magnitude of revenue can be generated if Bhagwati's tax proposal is applied in Australia as the country is becoming a preferred destination for both skilled and unskilled migrants (Chapman *et al*, 2015). The idea behind the Australian tax proposal is to gradually shift from the traditional dependence of development aid transfer from the national budget funded by the local citizens. Instead, it has to generate from the potential collection of the proposed brain drain tax levied among incoming migrants. The host government, however, will have sole discretion to authorize its expenditure for aid transfer. The programmed revenues can be appropriated to diplomatic instruments such that of the BLAs. Bilateral tax treaties between countries are commonplace today, as this form of institutional arrangement on tax administration, which was seen first as a significant implementation bottleneck, has significantly improved. In addition, tax treaties can provide a stable institutional arrangement for sharing tax information of potential taxable immigrants.

In light of the colonial history of nurse migration, it can be argued that development assistance should be a form of compensation in a BLA. Rectificatory justice requires X to compensate Y if the acts committed by X have a lasting detrimental effect on Y – the argument being that the present global inequality is connected to oppression and injustice throughout colonial history (Collste, 2014). Rectificatory justice stresses the need to acknowledge the grievances of the past and to engage states as parties for shared redress. Distinct from the distributive justice and liability model, rectificatory justice is a new theory being proposed to redefine the way we approach global inequality by bringing us back to the very situation that made countries underdeveloped and finding routes for rectification. Affirming rectificatory justice will require navigating through these concepts to argue for their relevance and perhaps further enrichment as applied in international relations, global security, political economy, and the rise of ethnic tensions. Collste (2014, p. 120) presents a model for rectificatory justice that requires three elements. Briefly, these are 1) acknowledgment of harm by colonial powers; 2) apologies rendered to former colonies; and 3) compensation for the harm done. Here, it is clear that there are at least two actors involved – the colonial masters and their erstwhile subjects, while the role of intermediaries for the two to deliberately engage is either assumed or

purposely silent. An open and generous migration scheme to former colonies is suggested as a rectification measure for the harm done during colonialism (Collste, p. 160). Although its negative repercussion to brain drain potentially invites controversy, it is deemed to be an unacceptable form of rectification. No matter how relevant and feasible rectificatory justice is, compensation will be a contentious area for agreement in BLAs as nurses are not a form of tradable slaves. Migrants should be taken as rational beings who strive for fairness in a contract to make labor mobility as safe, orderly, and productive as possible. Freedom of movement is the highest principle to be fulfilled in a contract that cannot be reduced to a form of compensation. Also, while the requirements for justice should involve two main actors, (X being the colony and Y being the colonial government who caused harm to X), it may require the involvement of present major actors as a way of acknowledging their rationality and sense of reasonableness to agree on the terms of moving forward with possible policy actions for redress. Additionally, a stronger emphasis may be needed on the linkage of the historical approach of rectificatory justice to the forward-looking objectives of BLAs.

All things considered, development assistance as a form of compensation in the BLA is about fairness more than repayment, altruism, or benevolence. It seeks to pouring real investments into health, wherein the harmful effects of brain drain to burdened societies are addressed. Development assistance should also carry a forward-looking corrective objective that primarily reforms the migration structure – from a site of injustice toward as a mechanism to promote fairness in guaranteeing civil liberties of the left-behind population. It is beyond financial assistance, but is the coming together of societies under their affinity in upholding liberal values, including the promotion for equity in health. Considering such, development assistance in BLAs is a form of compensation but one that is grounded on the corrective principle of reforming institutions that created unfair structural conditions for those who suffered from negative effects of the health workforce crisis. It shifts the burden of paying compensation from the individuals to reforming institutions, instead.

1.3 Development assistance is carrying out the duty of assistance

Considering the different ethical perspectives on development assistance, there is a compelling reason to refocus the role of background justice that guides the internal apparatus of a liberal state in dealing with the labor mobility of nurses. The task now is to allow ethically justifiable options for inclusion of development assistance that may guide future amendments and engagement in crafting BLAs. I am employing the principles of justice and applying the

DoA in BLA as a domestic policy on foreign affairs. It is a two-step proposition that engages BLA as firstly an inward-looking domestic policy that mainly draws its arguments from Rawls' *A Theory of Justice*, which was already done in the previous chapter. Second, it is an outward-looking foreign policy based on the DoA as part of the main principles of the Laws of Peoples. Hence, DoA accounts for the strict application of principles of justice that satisfies the two-tiered global original position. DoA is used as a principle of contract that governs the conduct of governments in an international arena. It is highly applicable in teasing out the effective institutional arrangement that guides the transfer of aid to burdened societies. The institutional character of DoA distinguishes itself from the moral principles commonly found in charitable work and humanitarian intervention as it focuses on the role of political responsibility in extending development assistance. It will mean following the Rawlsian social contract principles of justice as applied to the basic structure. To a certain extent, the compensation for the historical injustice of labor migration, and the sustained damage to the healthcare system of the origin country can be tackled within the procedural apparatus of justice.

2. DUTY TO ASSIST BURDENED SOCIETIES AND ITS RELEVANCE TO BILATERAL LABOR AGREEMENT

To reiterate, the main argument this chapter articulates is that development assistance should be an integral part of a BLA as an exercise of political responsibility through carrying out DoA to burdened societies. However, there are several challenges in following Rawls' three main guidelines on carrying out DoA, as listed in Chapter 3, in the BLA. In moving forward, there is a need for a better understanding of the status of a burdened society in light of the empirically relevant information recently available to us. The following amendments are suggested in reformulating DoA as a feasible principle when crafting development assistance as an integral part of any BLA.

2.1 Characterizing a burdened society

To Rawls, only burdened societies can benefit from DoA from a well-ordered society. However, the problem arises with this simplistic description of a burdened society when assessed in the real-world scenario. Rawls assumes that “... *burdened societies, while they are not expansive and aggressive, lack the political and cultural traditions, human capital and know-how, and, often, the material and technological resources needed to be well-ordered*”

(LoP, p. 106). While Rawls gives a substantial description of a well-ordered society in both ToJ and LoP, he misses out on important and updated empirical information of a burdened society that may be available to development scholars now. I will supplement this lack of empirical information by taking the cases of the actual countries, like the Philippines³, as examples of a burdened society that may consequently reorient our approach of the moral foundations of DoA. On this basis, the following observations, out of many possibilities, are offered:

- (I) A burdened society has an inspiration for becoming a well-ordered society because its basic structure is founded on liberal values, particularly the principles of equal liberty and democratic equality. It is burdened due to the inequitable arrangement of its resources resulting from a mixture of circumstances in its history, politics, natural endowment, geographical location, and economic interests. The sources of burden can be corrected such that it becomes a future liberal society.
- (II) A burdened society is not absolutely asset-less but possesses the necessary minimum assets to become a liberal society. These assets may not be enough to become a fully functioning liberal constitutional democracy, but its prospects of flourishing toward decency do not depend on DoA to a great extent. Instead, the prospects reside primarily in reforming its political organizations. Both natural and human resources are societal assets accumulated over time and can be enhanced for the gainful benefit of future generations.

These suggested categorizations provide additional information that may strengthen a claim for DoA for burdened societies. The first characterization is in line with the facilitative role of political reforms in the first guideline of extending DoA as well as the assistive role in human rights in reference to the second guideline. The second characterization emphasizes the prohibitive role of DoA in the third guideline, in which, by carrying out assistance, well-ordered societies must recognize the independence and self-determination of a burdened society.

³ A thorough description of the Philippines' journey to liberalism is provided in Chapter 3.

2.2 Linearity problem

Rawls sees the DoA as a strictly linear process, and only well-ordered societies could carry out its implementation. The burdened societies are only at the destination end. However, in international politics, developing countries have become more outspoken on global issues such as climate change, migration, and even aid effectiveness. Since taking labor export as a national development strategy, the Philippines has been articulating its position in the passage of the WHO Code of Practice as well as the recently concluded 2018 Global Pact for Safe and Orderly Migration (United Nations, 2018). Based on the Migration Index Metrix (The Economic Intelligence Unit, 2016), the Philippines topped the ranking for initiating policy reforms that are adopted globally as good practices for migration governance. Alliances among developing countries are also forming in the current trends in diplomacy that created a political influence on global decision-making, such as the WTO Trade Agreement (Matthews, 2005; Gray and Gills, 2016). Similarly, leaders of small island countries of the Pacific also showed the same kind of moral leadership that translated a degree of political force in calling for global support in the final signing of the United Nations Framework Convention for Climate Change (Ashe, Lierop, and Cherian, 1999; de Águeda Corneloup and Mol, 2014). There is no single explanation for the rise of alliances from the so-called Global South. Still, it proves a point that burdened societies can articulate their claims to global justice that includes a right to demand shared political responsibility in several problematic issues like the migration of its health workers.

2.3 Corrective objective

Rawls' three guidelines on DoA are not substantial enough to be effectively carried out when the historical background of a burdened society is taken into account. Institutions are major sources of injustice. Hence, it is apparent that institutions themselves are also responsible for appropriate action for redress. The DoA is rather forward-looking if it rests on the political responsibility of promoting justice. While it is sensitive to historical injustices, its focus is neither restoration nor retribution. DoA corrects injustice through reforms that prevent the creation of unfavorable conditions such that the burdened society can transform itself into a fully functioning liberal society. In Section 3 I argue that there is a necessity to refashion Rawls' DoA to optimize the effectiveness of development assistance in BLAs. It may require the assertion of empirically relevant data available on Official Development Assistance, remittances, foreign direct investments, and further reference to the real-world scenario on

international relations. Reinterpreting DoA as an asset-based model is a fundamental step that I will attempt to do in the context of negotiating development assistance in BLAs.

3. AN ASSET-BASED MODEL OF DUTY OF ASSISTANCE IN HEALTH

In this section I focus on health as a primary good being an objective of DoA. Although DoA has a limited role in fulfilling health as a basic primary good, it is argued that there is a political responsibility to be shared between the origin and destination countries for its realization. In *A Theory of Justice*, primary goods are essential to the fulfillment of the rationality of individuals, and Daniels (1996) argues that health must be considered as an essential one since it is necessary for the full development of human capabilities and achieving well-being to which healthcare is crucial. Advancing this argument a step further is significant in asserting shared political responsibility in carrying DoA in health sector reform.

However, as critical to Rawls' egalitarian objective in *A Theory of Justice*, Amartya Sen and Martha Nussbaum have offered alternatives that are different from the procedural form of Rawlsian justice. Sen (2009) works on the role of freedom and opportunities as essential components of full human capability rather than the equality of individuals. Nussbaum (2009) later on developed an expanded version of the Human Capability Model that is based on fulfilling the ten essential capabilities of becoming a fully functional human person. While it can be argued that their alternatives have made considerable attempts to refocus the idea of justice from the equitable resource distribution toward outcome-based human capabilities, both other options can be highly demanding to Rawls' limited scale of assisting burdened countries. Also, the capability approach to development assistance in the BLA may not be feasible as it is likely impossible to fulfill, given the present circumstances. Hence, the closest variant of Sen's capability approach, known as the asset-based model, is explored as a possible solution to Rawls' limiting principle of DoA.

An asset-based model of DoA has the potential to satisfy three Rawlsian guidelines of extending assistance to burdened societies. It starts from the assumption that the poor societies are not asset-less as there are natural and human capital resources that remain either untapped or poorly managed, and hence capabilities are not optimized (Moser and Dani, 2008). Therefore, it will not be too demanding a responsibility for well-ordered societies in carrying out the DoA, as it builds on existing local assets. Assets are the complex whole of existing resources that may pertain to the natural physical environment as well as human capital and social goods necessary

to perform capabilities. Therefore, DoA builds on these assets and diverts focus from the business-as-usual approach of needs-based development assistance. Instead, well-ordered societies are helping burdened communities in nurturing their available assets, further nurturing them to acquire more, and eventually transforming these assets to become a developed liberal society.

Today's asset-based health planning receives wider recognition as approaches to public health have been shifting recently toward an inter-sectoral operational environment with stronger emphasis for achieving well-being and quality of life rather than the traditional disease-driven public health (Whiting and Kendall, 2012). There is also a paradigm shift toward inter-sectoral community health planning that builds on existing resources and strengths among neighborhoods as assets. For example, Lindau *et al* (2016) have empirically generated at least 8376 operating assets that can be classified in a taxonomy of 28 functional sectors from the huge urban setting of Chicago, Illinois. Among the sectors with the largest assets are the food industry, trade services, religious worship, retail, personal services, transportation, clinical care delivery, education, childcare, social gathering, recreation, industry, housing, culture, and social services. In other words, asset-based health planning depends largely on the optimal performance of institutions in the distribution of public health goods, particularly disadvantaged segments of the health population. On this basis, an asset-based model of DoA is proposed in negotiating BLAs to distinguish the moral force of shared political responsibility from humanitarian activities and charitable work usually extended to burdened societies.

3.1 Health sector reform as existing asset to build on

The Philippines has a dual healthcare system comprised of a public sector that is mostly financed through a tax-based budgeting system and a market-oriented private sector that collects user fees at the point of service (Dayrit *et al*, 2018). Throughout the years the government has been the largest health provider in primary, secondary, and tertiary services across the country. In contrast, the private sector has been concentrated with the urban centers engaged in the distribution of medical supplies, profit and non-profit hospital services, drug development, and health promotion activities. Based on recent statistics (WHO, 2020; PSA, 2020), the total health expenditure ratio has improved relatively from 3.2% in 2000 to 4.71% in 2018, though it is still below the ideal health expenditure benchmark of a country set by WHO, to be at least 5% of its Gross Domestic Product. Using a deficit-based perspective on healthcare provision, the Department of Health (2012) identifies the primary health financing issues currently faced by

the Philippines, as follows: a) limited pooling of resources, leaving Filipinos largely at risk for cost of illness; b) efficient use of resources goes unrewarded; c) significant amounts of out-of-pocket expenditures; d) underserved populations at risk; and f) fragmentation of health services after devolution.

While public health challenges persist, notable efforts aiming at structural reforms in the health sector cannot be discounted. On the contrary, these reforms should be considered as existing assets. Starting with the 1978 Selective Primary Health Care after the Alma Alta Declaration of Primary Health Care, a community-based health care system was adopted to institute a more democratized access to health services with a strategic focus on the promotive and preventive measures of health intervention. This was followed by the Health Sector Reform Agenda in 2000, which stood on five pillars of reforms: (1) performance-based local health system development, (2) improving fiscal autonomy for public hospital management, (3) strengthening regulatory powers of health agencies, (4) human resources development and management, and (5) expanding healthcare financing to achieve universal coverage. Presently, the sustained high economic growth has allowed the government's economic managers to introduce tax reform measures, shore up its financial capacity, and then enable programs for universal health coverage (Romualdez, 2011 p. 95-96). Dubbed as *Kalusugang Pangkalahatan* (Health for All), the government envisions a targeted, focused, and deliberate health care services for the most vulnerable groups such as the indigenous communities (Department of Health, 2013).

Along with these structural reforms, major legislative wins are also implemented including local government devolution of health services, excise taxes on tobacco, alcohol, and sweet beverages, and universal health insurance. These legislative measures are adopted locally in consonance with major international accords agreed at the World Health Assembly such as the Framework for Tobacco Prevention and Control, and the Universal Health Coverage. These episodes of reform in the health sector partly show that the Philippine government has committed itself to health equity by adopting international agreements as part of its domestic policies. It is also important to stress that fulfilling the essential freedom on health is an expression of continuing liberal aspiration of the Philippines despite a burdened democratic state. Such continuing aspirations can be considered as valuable societal assets that may need enhancement through external assistance. Political and economic difficulties may have stalled its progress considerably. However, it can be argued that the migration of nurses and other health professionals may have aggravated the country's health situation and caused a significant barrier to the effective delivery of health services. DoA can fill these gaps, which puts a stronger

claim for development assistance in the BLA and help in sustaining the gains of the health sector reform that started several decades ago.

It is also noteworthy to raise the arguments of Huicho *et al* (2010), in which a public health approach to human resources for health needs system-wide thinking and to start veering away from the old utilitarian approach. As migration is an inevitable consequence of globalization, there arises friction between national public health goals and regional interests. As such, an internationally coordinated effort for health workforce planning is more an imperative than just an option to make. Campbell *et al* (2013) put to prominence the four building blocks on human resources for health that can be the blueprint for achieving the Universal Health Coverage agenda as a synchronized global effort. First, availability looks into both the geographical spread as well as types of professional specialization. Second, access pertains not just to the equitable access to health services but also the time of travel, transport, cost, opening hours, and infrastructure needed to utilize services. Acceptability is the performance of the workforce in providing equal treatment to everyone based on trust, confidence, and dignity of human life. Lastly, the increasing call for quality of health professionals is measured by a set of organizational norms as well as of the users. These building blocks on health workforce sustainability can form part of the asset-based model of DoA.

3.2 Institutional cooperation on development assistance

The third guideline on extending DoA prohibits the tendencies of well-ordered societies from overreaching its assistive role and from meddling in the management of the internal affairs of the aid recipient-countries. As shown in the graph, the liberal aspiration of a burdened society, like the Philippines, can be put forward through mutual cooperation with well-ordered societies. The assumption is that as long as both societies have strong commitment to the domestic difference principle and carrying out the DoA, a mutual agreement for development cooperation can be reached. The burdened societies' ability to fulfill the difference principle, in terms of provision of at least the minimum capacity level of basic primary goods, can be complemented by external assistance from well-ordered societies. At a minimum level, it pertains to Rawls' sufficiency level of the resource by which the basic structure can provide and enable developing their moral powers – rationality and the capacity to revise their decisions to become reasonable. Although Sen and Nussbaum later challenged this idea of a basic minimum with their human capability model, the emphasis of Rawls on the role of institutions makes a

stronger basis for DoA to be carried out. Institutions are needed to better manage assets and efficiently distribute their dividends, particularly for the worst-off population.

Graph 2: Interaction of Duty of Assistance and Difference Principle in BLA

Addressing the inequities created by the migration of nurses due to the BLA is the primary function of the domestic basic structure. However, their existing assets are insufficient to equitably redistribute these limited sources as well as having weak institutional capacities to do so (see Graph 2). On the part of the origin country, the difference principle in the BLA wants to achieve both efficiency and equity while allowing for the migration of health personnel. On the one hand, the origin country agrees to send locally trained nurses but should make it aware to the destination country of the inequities it will create to their health system. On the other hand, the destination country should recognize the potential harm and agree to extend development

assistance based on the sets of guidelines for carrying out the asset-based model of DoA. This theoretical assumption has, in fact, an empirical basis in the present global effort to manage aid effectiveness. Currently the 2005 Paris Declaration on Aid Effectiveness and Accra Agenda for Action has adopted five principles to increase the impact of aid in reducing poverty and social inequality in developing countries. These are ownership, alignment, harmonization, managing for results, and mutual accountability. Based on a survey (OECD, 2008 p. 78-90), the Philippines has reported notable progress in fulfilling the principles of aid effectiveness based on a set of indicators. These are the presence of operational development strategies, reliable public financial management (PFM) and procurement systems. It also monitors the alignment of aid flows on national priorities, strengthen capacity by co-ordinated support, and if aid is more predictable and untied. Other indicators considered are the use of common arrangements or procedures, joint mission and country analytical work, results-based monitoring framework and mutual accountability.

Following Dani and Moser (2008), there are variables to be considered in the multifaceted challenges in the development process of societies, such as inequality, informality, and the imbalance in asset building and state effectiveness. The asset-based policy model responds to these variables in three manifestations based on practice. Asset accession requires the policy intervention of the state to increase asset acquisition and create an investment climate that confronts institutional barriers and widens opportunities. This will be relevant in the discussion of remittance flow as a form of asset accumulation, and in accordance with Rawls' principle of savings. Next is the asset valorization that pertains to the identification of public investments that will increase the value of return to the poor and other vulnerable groups. There can be numerous ways of investing, but institutional capacity support is needed that addresses the limited capacities of poor people and civil society organizations engaged in different stages of development processes. Later, asset valorization can be linked to Rawls' difference principle by realigning the amount of foreign direct investment and creating more health assets for the worst-off population. The third manifestation is asset transformation, which points to policies that enable a more significant reformative effect on targeted problems. And this can be applied in refashioning the management of direct aid transfer as a major part of negotiating BLAs. Primarily, the objective is to link development assistance to existing health assets that fully satisfies Rawls' specific guidelines of carrying out DoA.

4. REFORMING ASSETS TO SUPPORT HEALTH AS PRIMARY GOOD

Several studies have shown the significant contribution of external sources of development assistance to the developing economies among middle and low-income countries (Ahmed and Martinez-Zarzoso, 2013; Benmamoun and Lehnert, 2013; Nwaogu and Ryan, 2015; Gutema, 2018). However, Driffield and Jones (2013) examine the importance of institutions, not only for growth directly, but for the interactions between institutions and the other sources of growth. Their study yields the conclusion that foreign capital has a positive and significant impact on growth when institutions are taken into account. On this basis, the types of assistance agreed upon in the BLA must be well-managed by the institutions to maximize the BLA's full potential in addressing health inequities among origin countries. There are at least three types of assistance in which the DoA can make an impact on the health system in destination countries: (1) remittances, (2) foreign direct investment, and (3) development aid. We will look into each of these types of development assistance and ascertain which available asset can complement in pushing for a primary good investment for health to be agreed on in the BLAs.

4.1 Remittances as an asset acquisition

Remittance is said to be the greatest economic benefit of migration to the origin country as it is the fastest route to poverty reduction, at both family and community levels (Pernia, 2010). Due to this influential role in the domestic economy, it can be indirectly taken as a form of assistance. By comparison, the level of remittances has overtaken development aid as an external source for dollars in the Philippines. In the next graph, the United States, Saudi Arabia, United Arab Emirates, Canada, and Japan are seen to be the top five remittance-sending countries, which also happen to be main destinations of Filipino nurses in the past two decades. More than the flow of money to the national economy, the institutionalization of remittance channels to private households has raised the level of accumulation of assets that gradually changed the overall human capability outlook of every family member in the future. Thus, remittances as source asset acquisition are now considered an important element of poverty reduction strategy in low-resource countries.

In spite of remittance's huge multiplier effect on the domestic economy, its private character as an asset confined within the household makes it more of a consumption-based resource than a source of public investments. Consequently, money earned from abroad is a key factor behind the trending consumerist lifestyle among Filipino migrant families. Despite this,

the principles of justice can be applied by using institutional mechanisms within the basic structure that can turn remittances, taken as a form of DoA, into productive assets.

Graph 3 Top countries as sources of remittances for the Philippines and percentage share, 1989-2017

Source: Bangko Sentral ng Pilipinas (Central Bank of the Philippines), 1990-2018

At the policy level, contracting parties in the BLA can mutually agree on improving the current financial regime that aims at reducing the transaction cost on bank transfers as well as to facilitate access to bank services. At the minimum, there must be regulation for the collection of fees and levies to make it reasonable. To satisfy the principle of equity in favor of the disadvantaged group, BLAs should aim for lessening the tax burden on migrants by breaking the financial barriers, or at the very least, seek to reduce the transaction costs. Although there are complex variables to consider, for example, the monetary policies on combatting money-laundering from an illegitimate source like corruption and schemes for funding terroristic acts, it is unfair to put further weight on the existing financial burden imposed on migrants.

The accumulation of wealth through remittances can be viewed in the light of Rawls' principle of just savings, which states that a person can create wealth through time and save a portion of it in preparation for well-being in the later part of his or her life (ToJ, p. 281). But even the principle of just savings needs an enabling institutional environment for its benefits to be meaningful and maximized. While public goods are up for distribution to the worst off, personal savings are not. But these assets are still subject to institutional mechanisms to regulate both their potential benefits and risks. Institutions can exercise both facilitative and regulatory roles of maximizing the asset accumulation of migrant nurses – and not just for untamed consumerist spending.

As stated, remittances go to private households, and as such, they do not directly influence the reform of the public health sector. But it cannot be denied that remittances are re-invested in education and real estate, which improves the quality of well-being. However, its potential for economic gains will not be optimized as long as the behavioral change in the consumerist orientation of household spending is improved. Take the case, for example, of the cyclical situation among thousands of Filipino families who have for many years have been dependent on remittances. Sudden termination of employment, an illness, or an accident of their family member working abroad can lead to financial disaster. Too much dependence on remittance inflow of a family member working overseas is a decade-long phenomenon that has been confined as a problem at the level of the household, and yet its societal impact is downplayed. Therefore, it can be observed that the migrant's attitudes on sending remittances and their family's spending behavior are not currently conducive to asset accumulation, and even inadequate to achieve long-lasting human capabilities. This is an opportunity in which institutions can exercise their facilitative and regulatory functions.

There are community assets present in helping the improvement of financial literacy among migrants and their left-behind migrant families (Advincula-Lopez, 2005). A growing

number of non-government organizations are currently working on a financial literacy and inclusion program for migrant workers to avail themselves of various financial instruments in the market. They encourage migrants to put their savings, usually just sitting idle in banks, into high-yielding investments or engage in entrepreneurial activities as added sources of income. Support for financial education programs is also provided for capacity-building that prepares return migrants or their family members to become entrepreneurs using the assets accumulated from working abroad. In other words, institutions are necessary for financial inclusion and in making remittances into an asset accumulation strategy for migrant nurses. The presence of credit unions, cooperative banks, and other forms of commercial microfinance systems are highly linked to bringing access to underserved migrant families, particularly those with a low level of education or those who are geographically excluded from banking services. For these institutions to materialize, DoA must be carried out as an exercise of shared political responsibility, and to complement the domestic theory of justice, particularly in the financial regulatory function of the government in easing the access to these financial instruments.

4.2 Realigning foreign direct investments on health as asset valorization

Breaking the culture of migration can be brought to an end only if a job-creating economic environment is in place. Abella (1993) cites the case of economic transformation of South Korea in taming the pressure of the outmigration of its skilled professionals in the 1980s. Like the Philippines, Korea was once a major supplier of construction workers in the Middle East region. But the inflow of foreign direct investments has fueled the rapid industrialization of its export sector and created jobs locally. Foreign direct investments can be negotiated in crafting BLAs to realize the long-term objective of labor migration as only a temporary policy of addressing unemployment. Using BLA as a trading instrument for attracting substantial foreign direct investment, particularly on health and education industries, can further create and expand public health services. The challenge to this option lies in the government's basic structure that will provide the regulatory environment to encourage private sector participation for pouring in foreign direct investments in the health sector. This essentially requires justification from the perspective of justice. In this agreement, foreign direct investment does not primarily aim at transferring wealth, but hastens the institutional environment to create more wealth for its people to benefit from. It carries the elemental guidelines of being transitory as it changes the structure of the political economy to become market-driven and business-friendly. It is facilitative in such a way that there is a tied conditionality involved and further subject for

review and renewal. Finally, it is assistive in that it renders advice on how to improve working conditions without intruding into the internal affairs of a burdened society, but more of being constructive in improving services or creating an enabling environment for primary goods to flourish.

Graph 4: Sources of Foreign Direct Investment in the Philippines, 1999-2011, in US \$ millions
Source: Bangko Sentral ng Pilipinas (Central Bank of the Philippines), 1990 - 2018

A country of origin has a strong moral claim to demand foreign direct investments from a destination country if the BLA creates negative effects on the health system. In Graph 4 a time-series data is plotted on foreign direct investments that reveals an interesting pattern. In the form of foreign direct investments, the United States and Japan are traditional investors in the Philippines. In stark contrast, top destination-countries of migrant workers in the Middle East like Saudi Arabia, the United Arab Emirates, and Kuwait are not investing enough. The untapped foreign direct investments from Middle-Eastern countries can be negotiated in a BLA as an act of carrying the DOA to help the Philippines in easing the burden of the unfavorable condition of its public health system. In particular, the Kingdom of Saudi Arabia, a host to thousands of Filipino nurses, has begun diversifying its investment portfolio to private companies abroad like Silicon Valley and several private investment holdings (Jawadi, 2018). The economic transformation of Saudi Arabia makes it a new major source of foreign direct investments in many developed countries.

It is, therefore, reasonable to demand a fair share of their foreign investments to mitigate the effects of the health workforce crisis. Their shared political responsibility can be raised in the negotiations citing their low-level record of commitment in cushioning the impact of the health workforce crisis. While it is understood that the bilateral relationship with Saudi Arabia is not based on the affinity of liberal values, the process of negotiating for foreign direct investment can still work within the market-driven economic cooperation framework and without sacrificing the rights of migrant nurses. In the case of BLAs, pouring investments into health system development must be prioritized as there is a strong moral claim for shared political responsibility. The negotiation overhauls the existing practice of BLAs with a dual purpose of ensuring fair ethical recruitment of nurses but recognizing the added investments to mitigate the adverse effects of the health workforce crisis. These are social investments that act as safety nets to the disruption of public health services, and their multipliers should precisely contribute to addressing both the root causes of outmigration of health personnel and the consequences of their departure. It must also be noted that the Philippines is perennially a poor performer in netting foreign direct investments as compared to its Southeast Asian neighbors such as Singapore, Thailand, Malaysia, and Indonesia. The unfriendly business climate is seen as a major discouragement for investments in the Philippines. As a result, the government has to internally reform its business policies to accommodate a more significant share of these investments. DoA can be extended to instituting reforms like providing technical advice on crafting policies that will foster faster approvals of investments. As an example, the existing European Union's partnership on the Generalised Scheme of Preferences Plus (GSP+) can be

further sustained (Council of the European Union, 2010). The scheme facilitates easier market access for export of some 6,274 eligible products from the Philippines to EU member states duty-free since December 2014 (Galace, 2018). Under this trade agreement, the EU also evaluates the country's compliance with the International Labor Organisation and United Nations Human Rights conventions, including the International Covenant on Civil and Political Rights (Alston, 2005). Although premised on the principle of free movement of trade, efforts to gradually introduce the human rights regime in government processes of burdened societies can be taken as incentives for reforms.

In terms of harnessing existing local assets, private sector involvement can pour investments into underinvested sectors on medical tourism and retirement villages, which can generate thousands of jobs for underemployed nurses, as well as medical research to develop life-saving drugs for common tropical diseases with high morbidity rates such as dengue and malaria. Potential investments are the construction of non-profit mission hospitals, drug development of low-cost essential medicines, and patent access to life-saving medical technology. There are plenty of start-up models that can be supported through capital infusion, especially those venturing in bringing in cost-efficient health technology in a low-resource setting.

4.3 Better managed development aid for health as asset transformation

Development aid, extended by affluent countries as either grants or loans, has the potential of scaling up investments to public health if it is better managed. The political responsibility for managing the effectiveness of development aid is directly connected with the burdened society's domestic basic structure. Therefore, aid transfers should be subject to the principles of justice. In this manner, the DoA as an external help interacts with the basic structure through the mutual cooperation of implementing development assistance. As an asset-based model of DoA, aid transfer enhances existing local assets and does not reinvent the wheel of development agenda crafted by a burdened society. While building mainly on these assets, institutions must be working on their enhancement and even taking a transformative role in political reforms. It is their affinity with liberal values that binds them in working together toward co-prosperity and international stability.

Graph 5: Official Development Assistance (ODA) as grants by country source, US \$ millions, 2001-201

Source: National Economic and Development Authority

Graph 5 shows the distribution of Official Development Assistance (ODA) in the Philippines, which offers an opportunity for further reform in carrying out asset-based models of DoA. Japan tops the list in providing loan assistance, but its focus is heavily skewed toward infrastructure development in road transport and energy. Multilateral institutions like the Asian

Development Bank and World Bank are also providing development loans in different sectors, but just the same, infrastructure receives the highest share (as shown in Graph 6).

Graph 6: Official Development Assistance as Grants by sector, 2001-2016, in US \$ millions

Source: National Economic and Development Authority

It is hard to dispute the influential role of infrastructure development in poverty reduction, and usually investments in health are taken as the least priority when the financial space is limited. The preferential arrangement is easily understood from the perspective of financing as infrastructure provides a win-win solution for the borrower and the lender. On the one hand, the infrastructure sector is capital intensive, so that the borrower – a burdened society at that – lacks the capacity to finance. On the other hand, the lending country puts in the needed capital and recoups it thereafter with marginal profit from a range of engineering services, interest payments, and professional consultancy fees.

Figure 1: The percentage share of Official Development Assistance by sector, 2001-2016 5. The percentage share of Official Development Assistance by sector, 2001-2016

Source: National Economic and Development Authority

Figure 1 shows that Japan, Australia, and the United States are significant contributors of grant assistance to the Philippines' public health programs. Although it is noticeable that the level of support is decreasing as the country is gradually transitioning to an upper-middle-income bracket. Multilateral organizations such as the World Bank, Asian Development Bank, and United Nations agencies have also provided a substantial amount of grant assistance in the same period.

Figure 2: The percentage share of Official Development Assistance by sector, 2001-2016

Source: National Economic and Development Authority

Figure 2 shows data collected between 2001 and 2016 from human development initiatives that include health, education, and social services, accounting for almost a third

(32.6%) of the aid transfers. This is followed by the infrastructure sector (24%) and governance (19%). Note, however, that Middle-Eastern countries made no significant grant assistance – a point that can be raised and negotiated as part of demanding political responsibility in negotiating for BLAs. It is a moral concern that can be construed as noncompliance with political responsibility. However, it is highly complicated to navigate a real-world scenario when one party involved in a contract agreement totally rejects the principles of justice of a liberal society, which is the other party at the negotiating table.

Refashioning the traditional business approach to investment planning needs to adopt a whole-of-society approach that centers on the enhancement of human capabilities, and health investments play a critical role in its realization. Turning back to BLAs, health assets are in place in most burdened societies that the DoA can nurture and develop further for its optimal efficiency of use. Health assets can be an army of trained community health workers who are at the front line of health service delivery but whose skillsets may be limited in responding to changing epidemiological transition. Assets can also be the community-based organizations that have established a network of partnerships but are marred with capacity issues to expand or even financially sustain operations. There is also the untapped traditional health knowledge, which is closely linked to the natural physical environment, present among indigenous communities but threatened by the adverse events of climate change, industrial encroachment, and westernization of culture. However, these assets are commonly found to be broken, fragmented, and dysfunctional, which are symptomatic features of the political system in a burdened society.

The oversupply of nurses and poor health outcomes in the Philippines are hard to reconcile unless the roots of the problem are addressed. The distribution of health resources favoring urban areas over rural provinces only describes an inefficiency problem of the health department. These issues cannot be resolved by fielding health personnel alone, but should be combined with increased investments in health technology, innovative local health systems, and an expanded pool of technical health experts. Hence, the political structure of the destination country must directly address these social costs incurred in the health workforce system of the origin country as their fair share of political responsibility.

Through development assistance BLAs can provide an enabling environment in making up for these shortfalls. Tied conditionalities in grant assistance from destination countries can complement the internal health sector reform in burdened societies. They can be harnessed to support urgent international health policies but are met with institutional challenges for national adoption. Among the examples of development cooperation for health are sharing of expertise in medical technology, adopting health informatics from developed countries for effective service

delivery in low-resource settings, and conducting joint scientific engagement among medical schools for collaborative research on neglected tropical diseases. Hospital management and health technology regulation are another fruitful areas whereby developed countries can transfer their technical know-how on the latest best practices for clinical quality improvement. The proposed arrangement of development cooperation will thrive as the new architecture of global health governance calls for more innovation, collaboration, and sustainability (Fidler, 2010). The point here is that inefficiency is not merely a problem of lacking core health personnel. It is mainly about establishing a workable system-wide public health system that also includes a variety of professionals with different skillsets. With these changing needs, it is therefore reasonable to adopt a holistic human resource for health framework as part of the development assistance in the BLA.

A better health system needs a long-term investment financing plan. Although a limited opportunity, assistance to health financing may pertain to a partnership with existing community health organizations. They have already developed appropriate business models in the Philippines to restructure payment systems for social insurance and make it accessible to low-income households (Dror *et al*, 2005; Obermann *et al*, 20006). In other words, assistance to healthcare must graduate from traditional medical health missions, which are often unsustainable due to vulnerability to partisan political pressures, toward transformative and people-centered community engagement in public health. In this regard, it opens an opportunity for origin and destination countries to share financial resources but with a cut-off point period. The former, being the poor country, will benefit from the developed countries through rationalized resource planning in development aid. Lastly, the inefficiency of development aid needs to be addressed as a form of shared political responsibility. Rawls emphasizes the basic structure for the reason that it regulates the distribution of resources to favor the worst-off population. More important than addressing the inefficient use of these resources is the pressing matter that political responsibility for reform is required. Exerting political responsibility in plugging the leakage due to poor governance is part of the liberal transition that burdened societies should be willing to accept and carry out in reaching the final terms of development assistance in the BLA.

4.4 Return migrants as asset building

Return migrants are active players in asset building. The concept of return migration is the key element that can boost the gainful use of the previously mentioned assets on remittances,

foreign direct investments, and development aid transfer. Returning migrants facilitate these assets as they can potentially bring a wide variety of knowledge to their country of origin and create transformative institutions needed for a functioning liberal society. There are at least three aspects by which return nurse migrants can thrive in reforming and creating health assets of their original home country, and other aspects of social reform areas of a burdened society. First, in a combination of their cash resources from savings and investments, returning nurse migrants are future entrepreneurs who have with them the technical know-how to reform organizations. But it is also important to assist them in shifting their career to entrepreneurship. Freedom of movement and choice of occupation are the basic civil liberties involved for return migrants that the DoA must sustain. Institutional requirements to ease the path of return as an entrepreneur is a shared political responsibility for both origin and destination countries. Although the former appears to carry more weight in carrying out this political responsibility, as it entails domestic policies supportive of their return. Particularly significant in providing incentives for their return are basic provisions on dual citizenship for those who have changed their resident status that will allow them to enjoy the same access to basic liberties in their original home country. This also has implications in giving them fair access to other highly regulated business incentives like property ownership and banking transactions. More than ever, support service for effective reintegration of thriving entrepreneurs is an institutional process that starts from the destination country by preparing them to retool their skill sets, core competencies, and leadership management in running their private businesses.

Second, return migrants are potential agents for attracting foreign direct investments in the origin country. In turn, a dynamic business climate will improve the macroeconomic fundamentals of a poor country of origin in further modernizing toward a competitive modern economy. Attracting foreign direct investments in BLA may be explored between country-governments. However, maintaining business confidence is totally dependent on the institutions that will regulate the economy and its long-term stability. Moreover, nurse migrants can be seen as a linkage to health investments and an opportunity as long as there is an institutional mechanism that supports a pathway for a gainful return-home program.

Third, migrant nurses have established professional networks that can be harnessed in their future return to their home of origin. Through the years of remunerated work in a foreign country, they have established a professional network that caters for health concerns in their origin countries, like the international chapters of Filipino-American Health Workers Association (FAHWA) and Philippine Medical Society of Northern California (PMSNC). As professional organizations capable of bringing technology transfer to their home country, nurse

migrants can act as intermediaries for easy and fast facilitation of medical missions to far-flung communities in the Philippines (FAHWA, 2020; PMSNC, 2020). Along with professional networks, their talents honed by years of training are assets that can be used for the education of a future generation of nurses who will be in need of skills upgraded by modern technology in health care. Returning nurses can opt for leadership positions at the local nursing education institutions and take part in forging development cooperation in human resources for health overseas.

4.5 Policy coherence in diplomacy

In ensuring fairness in BLAs, it is clear that carrying out DoA by destination countries rests on the shared political responsibility being demanded from them. Throughout the discussion, it is argued that DoA, in the form of development assistance, is different from the traditional charitable work or humanitarian action; hence, normative theorizing on the extent of political responsibility is provided. Different types of assistance are analyzed – remittances, foreign direct investments, and development aid – and on how it can be harnessed as part of the DoA. An asset-based model of DoA is introduced to illustrate how destination countries can carry out their political responsibility in mitigating the harmful effects of health workforce crises on the left-behind population. The general premise in carrying out DoA through development assistance points to building on the local assets of the burdened societies consistent with Rawls' three basic guidelines on extending DoA. In addition to these guidelines, DoA carries a corrective objective as it reforms the migration structure that creates injustice and effectively prevents reproducing another. In the end, the moral justification for allowing BLAs for nurses achieves a coherent policy framework that will be a useful diplomatic tool for negotiations. The next step is to show the feasibility of a coherent foreign affairs policy framework on BLAs, which is addressed in the next chapter.

Chapter Seven

The Feasibility of Bilateral Labor Agreement for Global Nurses

In the above chapters, the formulation of an idealized BLA is presented that satisfies the requirements of justice that are relevant in both domestic and foreign affairs. The BLA, as domestic policy, is a product of the coherence of morally important domestic concerns and ethical principles governing fair recruitment and foreign affairs policy. And finally, with its interaction with Rawls' Laws of Peoples, the BLA must consider the principles of DoA when other countries are expected to carry out a substantive degree of political responsibility in managing the migration of nurses. In comparison to the current practice, the idealized BLA follows procedural fairness in managing the migration of nurses. In this chapter I discuss a feasibility test of the BLA and consider possible objections to its use.

1. FEASIBILITY TEST

In order to test the feasibility of a BLA it is necessary to first understand the operational context that determines the political structure of every country in which the government is bound to honor the terms of the agreement. The political culture of any government is the primary determinant of the internal affairs governing its health workforce development. The idealized BLA must therefore be sensitive to these factors, making the feasibility of contract implementation an additional challenge. The ways of organizing a society will define the parameters of its behavior toward other peoples who are contracted to work within a cooperative form of international society. The key step to test the feasibility resides in drawing up different scenarios based on the operational context of different countries.

1.1 Different scenarios for BLA application

In *The Law of Peoples*, Rawls draws a realistic utopia of the world order as part of ideal theory. For him, the ideal scenario is realistic and may exist, but it can also be utopian, as it is highly desirable that it combine reasonableness and justice with conditions enabling citizens to realize their fundamental interests (LoP, p. 7). Rawls has a motivation behind the principles of *The Law of Peoples*, i.e., that there is evil in human history and that the gravest injustices it

creates must be eliminated. The ideal theory envisions a realistic utopia of liberal societies, that is, the optimal point at which all societies have established their own just or decent institutions. The use of BLA to manage the migration of nurses between liberal societies is not necessary since their diplomatic relationship is based on the principle of mutual recognition of basic civil liberties. It is the common interest of these societies to advance and maintain the stability of liberal constitutional democracies within the international cooperative scheme. However, the ethical use of idealized BLA is geared toward its application or non-application as a diplomatic tool in non-ideal scenarios. The BLA serves as a guide for liberal foreign policy in dealing with different types of societies. With the Philippines as a reference point (an example of a burdened society) I explore five possible scenarios of applying BLAs. In doing so, it is a good starting point to consider Rawls' primary classification of different societies.

Scenario I: Liberal societies

Liberal peoples are reasonably democratic, with shared common sympathies, and with a firm attachment to morality as expressed in the conception of rights and justice (LoP, p. 23-24). Liberal peoples are capable of agency and possess a form of psychology that parallels that of an individual agent. Their relationships, however, are on these two fronts: the domestic affairs in relation to their citizens, and international matters with other peoples. Thus Rawls says that peoples are actors when making a commitment, such as commitment to the law of peoples (LoP, p. 17). Also, liberal peoples show reciprocal respect as a form of recognition of their equality (LoP, p. 35). But they do not necessarily have duties to non-liberal societies. This is so for the reason that there is a lack of core elements of shared cultural beliefs. More importantly, there is a lack of dedication of each member to participate in forming the basic structure in a manner that is rational and reasonable (Petit, 2006, p. 44).

To reiterate the main argument in the above chapters, the BLAs should be an instrument for a liberal state to help a burdened society to become a well-ordered society. In addition, a liberal state has a duty to assist in transforming a burdened society such that the former becomes like one of their leagues. Moreover, it is important to stress that there is an affinity of liberal values that binds well-ordered and burdened societies together. As mentioned in the earlier chapters, the Philippines has existing BLAs with Germany and Japan and continually deploys additional nurses to

these countries each year. The BLA between burdened and liberal societies strengthens the importance of liberal values that they both shared. BLAs assure that migrant nurses are respected and protected in terms of their basic civil liberties. Also, liberal societies should carry out the duty of assistance through the BLA. Germany and Japan have been long-time development partners of the Philippines for decades. Collaboration exists in multiple areas such as infrastructure, health, peacebuilding, education, and democratic governance.

Scenario 2: Decent societies

Decent societies are non-liberal societies. According to Rawls (LoP, p. 64), their basic institutions meet certain rights of citizens to play a substantial role in making political decisions, through associations and groups, for example. They respect basic political rights like the freedom of association. This means that citizens can influence society in a significant way. They may also be involved in certain political decisions. Citizens honor a reasonably just law for the Society of Peoples. There are at least two characteristics of decent societies (LoP, p. 64-65). First, they are perceived as peaceful and cooperating members of an international community. They do not aim to expand in ways that can be a threat to liberal societies. Second, they (1) provide common good and basic human rights to their people, (2) recognize the moral capacity of each member, and (3) have the rule of law. Decent societies exist and can co-exist with liberal societies under the norm of pluralist principles of mutual respect and tolerance.

The feasibility of BLAs between burdened and decent societies will depend on the actual political context of the latter. Burdened societies can utilize BLAs as a policy to protect those migrant nurses who decide to exercise their freedom of movement and choice of work. Singapore approximately fits Rawls' description of a decent society. Citizens of Singapore enjoy a sufficient standard of income and living, while fundamental liberties such as free speech and assembly are curtailed. Known for its rigid laws and no-nonsense enforcement, Singapore achieved economic success under former Prime Minister Lee Kuan Yew (1959-1990). The Philippines and Singapore have been good regional neighbors for several decades. The small island-state has been a friendly host to many Filipino professionals and low-skilled domestic workers, which is better described as an economic necessity governed by the market (Yeoh *et al*, 1999). However, in 1995, there was a diplomatic row between the two

countries when a Filipino domestic helper, Flor Contemplacion, was sentenced to death after being found guilty of committing murder. For the the Singapore Government, the overdependence on foreign labor has turned out to be political and security issues that threaten the future of their economic integrity (Yeoh *et al* 1999). On the part of the Philippines, the incident caused an uproar among its citizens against the Singaporean Government for not providing enough legal services to the accused domestic woorker while the case was on trial (Aguilar, 2014 p. 124 - 125). If this would be a recurring situation whereby the government regime fails to uphold other equally important fundamental liberties of migrant workers, the use of BLAs would not be feasible. However, the BLA can still be considered feasible for the moment because the Singaporean Government has agreed to protect a more comprehensive list of civil liberties after the incident. If this comes to pass, the BLA will give blanket protection that will also extend to other basic liberties, e.g., the right to due process of law.

Scenario 3: Burdened societies

I explain in length in the last chapter that some societies are burdened with socio-economic conditions due to historical, geographical, and economic circumstances. The desire of these burdened societies to transition into a well-ordered regime, whether liberal or decent, can be difficult to achieve if not impossible. At present, burdened societies often use overseas labor deployment as a national strategy and choose to send citizens to nations with which they share certain commonalities in history, culture, religion, and ideology. I mention that the Philippines fits into this description as an example of a burdened society.

Burdened societies can collaborate to create an alliance that supports a comprehensive labor arrangement that protect their respective migrant nurses in a destination country. Burdened societies share problems on economic hardship and political instability, which are compelling reasons for them to seek collective global solutions. One of these is reforming the practice of BLA. Burdened societies may cooperate on improving labor mobility arrangements to protect the human rights of migrant nurses. In parallel to coalition-building among burdened societies, liberal societies can aid in advocating human rights-based reforms pushing for fairer terms of BLAs. Germany implements the Triple Win Project in countries that suit Rawls'

description of burdened countries. These are the Philippines, Serbia, Bosnia and Herzegovina, and Tunisia (GTZ, 2020). These countries are all classified as middle-income under the World Bank's income classification. Japan also forges BLAs with Indonesia and the Philippines. Both Indonesia and the Philippines are classified as middle-income by the World Bank (2020). A tripartite model for labor mobility arrangement can be explored that is composed of burdened societies collectively seeking fair terms of agreement with well-ordered societies. Burdened societies can potentially transform policies into cohesive action plans if they manage to act as a single political coalition. A stronger alliance yields more tangible results rather than if each nation work along traditional bilateral routes of diplomacy.

Scenario 4: Absolute benevolent societies

Benevolent absolutist societies honor most human rights. But because they deny their members a meaningful role in making political decisions, they are not well-ordered (LoP, p. 4; LoP, p. 88). The feasibility of BLAs with absolute benevolent societies is not tenable because of their non-compliance to provide a proper venue for their citizens to deliberate their overlapping political views. But if the terms of the BLA are fairly deliberated and accepted through continuous dialogue, the deployment of nurses is allowed under strict monitoring and reporting of compliance.

Benevolent absolutist societies have many different administrative features. In a few instances they are almost liberal societies with a monarchy that can influence policies in favor of the migrant nurses. BLAs are justifiable as long as respective governments express a strong commitment to uphold the basic civil liberties of foreign workers. Therefore, whether or not negotiations with absolute benevolent societies can be justified depends on their willingness to accept the terms of BLA. Absolute benevolent societies can also be encouraged to adopt multilateral or regional cooperation strategies that facilitate dialogue on how to strengthen the protection of freedom of migrant workers. However, in some cases absolute benevolent societies cannot be trusted to uphold basic human rights. These are the kinds of BLA that are currently enforced by the Philippine Government in the Middle Eastern region. Since the boom of the oil industry in the Gulf, the Philippines has been the leading source of foreign health workers to Saudi Arabia, Bahrain, Kuwait, and other Middle Eastern countries (Ball, 1991; Aguilar, 2014). Filipino nurses and other health professionals

now constitute the largest segment of the health workforce in the Middle Eastern region. Unless their oppressive political regimes in countries like Saudi Arabia, Bahrain, and Kuwait are changed, BLA should not be allowed. And if BLAs are currently in force for implementation in these countries, a burdened society can suspend or discontinue the deployment of nurses. This is because the existing bilateral relationship is predicated on the strong influence of wealth and unequal balance of power that favor the demand of a benevolent absolute society.

Scenario 5: Outcast societies

Outlaw states are non-compliant entities of the international community for the reason that they threaten international peace by attempting to expand their power and influence (LoP, p. 48). These countries also have a long record of violating the human rights of citizens within their territory (LoP, 80 – 81). Outlaw states are aggressive and dangerous. Hence, all people everywhere are safer and more secure if outlaw states change, or are forced to change, their ways (LoP, p. 81).

BLA cannot be justifiable with unstable outlaw societies because their fundamental institutions fail to protect the basic liberties of foreign workers. A burdened society that would engage in a BLA with a non-compliant society would undermine the main principles of equal liberty and equity. Citizens of a burdened society entering a BLA with a non-compliant nation would expect that their government protect their basic rights while they are outside their territory. There is no assurance, however, for this protection when living and working in an outlaw state. The historical records of non-compliance are compelling enough as reasons to prohibit BLA with outlaw states. Moreover, there should be a ban of BLAs with outlaw states showing fragile state security or that are fraught with conflict. For example, health workers were stranded during the 2011 war in Libya (Vilog and Ballesteros, 2015). When an outlaw state is failing due to armed conflict, it is unjustifiable to deploy nurses if their basic rights are vulnerable to abuse. This is even truer when the personal safety of nurses at the workplace are at risk due to protracted conflict and civil unrest. The responsibility for their repatriation also becomes unclear if there is no effective working government in an outlaw state experiencing an ongoing security crisis.

1.2 Adjustments and revisions

The stability of the principle of justice will depend significantly on the accountability of governance within the basic structure. Hence, the presence of a monitoring and feedback mechanism allows for adjustment and revisions of the BLA implementation. Institutions play an essential role in gathering evidence-based sources to evaluate the effectiveness of BLA. These sources are inputs for the revision of BLA, and in the process, will result in better implementation. The limited availability of data on human resources for health and other important information is the reason for the failure to fully assess the impact of the previous implementation of BLAs (Abuagla and Badr, 2016). Without a reliable management information system, inadequate planning for human resources development becomes an inevitable outcome in many countries. In this regard, the WHO Code of Practice should be followed in requiring long-term objectives for joint monitoring and compliance of BLA commitments between country-governments. This code proposes a holistic implementation of the BLA.

First, continuous joint monitoring of compliance with the WHO Code of Practice should be an integral part of the governance structure when implementing a BLA. Criteria for joint monitoring and evaluation are elaborated in Article 6.1, which states that member states should recognize that the formulation of effective policies and plans on the health workforce that requires a sound evidence base. Given the unique characteristics of national health systems, each government that is a party in a bilateral agreement must invest in health personnel information systems, including health personnel migration, and its impact on health systems. Robust data collection and analysis will translate into effective health workforce policies and planning. All of these efforts will likely lead to a strengthening of research programs in the field of health personnel migration and coordinate such research programs through partnerships at the national, subnational, regional, and international levels. Once in effect, a robust data gathering system will further support information exchange between countries (Article 7).

Second, compliance with the principle of DoA is a major area of concern for the future design of development assistance for burdened societies. Based on mutual respect and reciprocity, WHO member-countries should cooperate to promote transparency in the monitoring and reporting of international commitment. In this way, commonly occurring lapses in data collection and management that are due to the voluntary nature of the reporting systems can be avoided. On this note, the principle of solidarity governs the voluntary reporting of compliance for both government institutions and international organizations. Countries should designate a national authority responsible for the exchange of information regarding the

implementation of development initiatives as agreed in the BLA. According to the WHO Code of Practice (Article 9), the designated governmental authorities are encouraged to communicate directly with designated national authorities of other member states. The WHO Secretariat, together with other concerned regional and international organizations, coordinates the submission of reports and other additional information. This cooperative implementing structure among countries ensures the observance of voluntary compliance.

Third, given the needed requirement for adjustments and revisions, competent officials must run the public offices in overseeing the implementation of the BLA. They should adhere to the highest call of public service in terms of enforcing fair recruitment and orderly deployment on the part of the origin countries, which ensures appropriate employment standards and access to labor rights on the part of the destination countries. Rawls (LoP, p. 59) introduces the concept of public reason to reinforce the stability of the political structure of a liberal society over time despite differences in political, religious, and moral beliefs. Legislative, executive, and judiciary competent officials are all instruments of democratic citizenship. They will foster a closer “relationship of persons within the basic structure of the society into which they are born and in which they normally lead a complete life.” Relatedly, the concept of responsibility among public officials is also highlighted in the WHO Code of Practice. Concerned governments are expected to periodically report the measures taken, results achieved, difficulties encountered, and lessons learned into a single report (Article 9.1). Therefore, public officials are always ready to listen to the personal experiences of various stakeholders and to ascertain the specific parameters that need readjustments as part of continuous quality improvement of the BLA. The feedback mechanism is part of active democratic citizenship that encourages the exercise of responsibility to maintain the stability of the basic structure. Without a continuous improvement process supported by the end-users themselves, the foundation of the basic structure is weakened, and public confidence and trust in BLAs may be lost. At the level of accountability at the WHO, the Director-General is also directed to keep under review the implementation of the BLA, and the code in general, based on periodic reports received from designated national authorities. In turn, the World Health Assembly receives regular reporting on the effectiveness of the code in achieving its stated objectives and suggestions for its improvement (Article 9.2).

Fourth, the use of BLA is also subject to revisions and adjustments in extraordinary situations. For example, the moral permissibility of a BLA in a pandemic situation must be assessed by officials in relation to crisis. On the one hand, the BLA facilitates the deployment of nurses to help countries in need of staff augmentation. On the other hand, it is also a mechanism to restrict during massive outflow of nurses in an episode of a pandemic. The origin-country

may argue that its health system is in a burdened situation during a pandemic. Hence, the presence of BLAs in a pandemic situation acts as a safeguard for ethical decision-making by temporarily restricting the deployment of nurses abroad. In countries with which the Philippines has existing BLAs, there is an automatic restriction of the deployment of nurses outside the country. The WHO Code of Practice (specifically in Article 8.7) encourages to follow the situation in origin countries and discouraged destination countries from recruiting health professionals in countries suffering from a precarious public health situations. The restriction for active recruitment eases the critical shortage of health personnel in origin countries during the height of the pandemic. However, in cases when a BLA is lacking, the deployment of nurses in the middle of the ongoing pandemic creates a moral controversy. A case in point is the action of the United States Government to expedite the recruitment of Filipino nurses, as direct hires and not through government-to-government BLA, in order to augment the needed hospital staff due to the increased demand in their hospital services brought by the COVID-19 pandemic (Einhorn *et al*, 2020). In this case, the presence of BLA acts as a protective policy because it brings out the core meaning of shared political responsibility in several aspects. For individuals, the BLA acts as a mechanism to protect their civil liberties, and more importantly, to ensure their welfare and safety while they are working at the frontline in hospitals. For the origin state, the BLA shields its fragile health workforce from sudden collapse, thereby protecting the health of the population while in the middle of a crisis.

2. OBJECTIONS AND RESPONSES

There are objections regarding to the idealized BLAs that deserve further deliberation. Clarifying these objections is part of a comprehensive feasibility test of the idealized BLAs.

2.1 *Stronger principle of global justice*

In the introductory passage, I argue that it is insufficient to frame the migration of nurses as an issue of maldistribution of human health resources. I argue further that BLAs are negotiations currently operating within the context of power imbalance in the international system. The magnitude of the global health workforce crisis calls for a concerted international action that rests on the principle of global justice. However, Pogge (2012, p. 15) warns about this prevailing global order. If it is left unconstrained by any substantive concept of social justice, most negotiations will reflect the unequal expertise and bargaining power among

negotiating governments. Pogge further cautions that international diplomacy today works to sideline the interests of individuals, especially those living in non-liberal or more impoverished societies. And so, a different pathway toward a stronger principle of global justice should be sought, as a statist approach policy may not respond to these gaps.

The narrow application of Rawls' *A Theory of Justice*, on both a domestic and international scale, has been subject to criticism. Rawls' modest approach in *The Law of Peoples* is often criticized for lacking substance in solving real-world problems. The refusal to extend the difference principle of the domestic theory of justice to global application tends to restrict the application of liberal principles within the border of a liberal state. An alternative idea of managing migration is the cosmopolitan framework. Cosmopolitan thinkers imagine a world free of the politically defined border and an egalitarian society founded on basic tenets of liberalism. Kapur and McHale (2006) propose a cosmopolitan global justice that works in the centrality of three core principles of universal liberty, efficiency, and equity. Their cosmopolitan governance framework offers more equity-oriented objectives that are shared by global actors. They claim that people are morally equal in terms of their entitlements to basic liberties regardless of their national identity or ethnicity. The basic principle of cosmopolitan justice also gives a stable, long-term solution to the health workforce crisis rather than confining our remedies to the nation state concept of international politics. Cosmopolitan justice provides the basic structural framework of global justice as well as the constraints within which legitimate patriotism may operate. It also offers a variety of options in structural approaches, ranging from a strong stand on a human rights regime of global governance, a moderate view of attaining a level of pluralist governance, and a softer approach to setting minimum standards for a decent living (Brock, 2009). Therefore, cosmopolitan-based management of nurse migration shifts focus toward the protection and promotion of the rights of migrant nurses, away from the prevailing realist objectives of most states' foreign policies. Similarly, cosmopolitanism potentially addresses the unjust and restrictive emigration and immigration policies among states (Ypi, 2016).

I acknowledge that the principles of global justice directly respond to the health workforce crisis in the long term. I also recognize that cosmopolitanism gains appeal and offers compelling normative arguments in settling major ethical problems found in current migration policies. I reiterate that the focus of my dissertation pertains to the BLA (as a migration policy) as the subject of justice. Accordingly, to be consistent with Rawls' institutional approach to justice, it is confined to the closest possibility about how we see the world at the current order. Current operational difficulties in the practice of BLAs give reason to believe that development

assistance should be extended on certain conditions. However, introducing the Rawlsian principle of duty of assistance in the practice of the BLA rather than a cosmopolitan global governance of migration is feasible in a real-world scenario. While the health workforce crisis is a global justice concern, current migration of nurses stems from a structural injustice. And it is difficult to ascribe responsibility for the current order to single individuals. Therefore, it is reasonable to hold the institutions accountable for addressing the sources and effects of injustice. There is no better way to reform migration policies than by starting with the primary institutions of governments.

On the basis of cosmopolitanism, one way to move forward would be to adopt a dual approach to solving the global health workforce crisis. It can be thought of as a two-way street where there should be state-centric support for bilateral agreements and robust support for building up a global institutional structure. For instance, the WHO and ILO coordinate the distribution of human resources for health, in tandem with global health organizations and respective member-states. For decades, government representatives and other global actors have been working on different tracks to resolve issues on migration, labor, and health. These uncoordinated efforts are results of bureaucratic-laden global structure that is costly, wasteful, and ineffective. In recent years, a broader platform for the convergence of migration agenda with health and labor rights has emerged in the global development nexus, which offers an opportunity for the further advance of liberal foreign policy. This convergence has become more evident in the agenda of the International Migration Organization (2018) for the Sustainable Development Goals: *“No longer is human mobility seen as background context for development, or worse merely seen as a consequence of lack of development. Rather, with the SDGs, migration is an issue to act upon to enhance sustainable development...”*. By the same token, the direction of migration and development nexus points toward a cooperative calls upon the World Health Assembly to retool their global strategy in human resources arrangement, which also for health, to wit:

“Health workers are critical for accelerating progress towards 2030 Sustainable Development Goals. Investing in the education and employment of health workers as part of national human capital strategies represents an opportunity to create jobs, particularly for women and young people, and thus to make a significant contribution to the achievement of Sustainable Development Goals on education, gender equality, and decent work.”

The policy statement is a collegial product of the continuous engagement of country representatives in the emerging field of global health policy. The joint communique of the 67th Session United General Assembly (2017) also declares the Universal Health Coverage for All (UHC) as a shared global agenda in ensuring that all people obtain the health services they need without suffering financial hardship when paying for them. The UHC requires a strong, efficient, well-run health system, a system for financing health services, access to essential medicines and technologies, and sufficient capacity of well-trained, motivated health workers. As a follow-through on the health workforce agenda, the WHO adopted a framework of Health Workforce 2030 based on the specific metrics of availability, accessibility, acceptability, and quality. In 2015 the WHO identified their health-related SDG targets and their corresponding indicators to cut across at least nine other SDG targets on poverty eradication, zero hunger, health and well-being, quality education, gender equality, decent work and economic growth, reduction of inequalities, sustainable cities and communities, and establishing partnerships.

SDG Target 3.c Substantially increase health financing and the recruitment, development, training, and retention of the health workforce in developing countries, especially in least-developed countries and small-island developing States.

Indicator 2.c.1 Health worker density and distribution: density of physicians and nursing and midwifery personnel (per 1000 population).

In the current situation, the BLA is an immediate response to the global health workforce crisis. In the long term, the use of BLA as a liberal foreign policy directly shapes the direction of the 2030 Sustainable Development Goals.

2.2 Structure of justice

The BLA is a product of binary diplomatic relations and cannot address the global health workforce crisis. This is simply because the BLA fails to address the core moral problem of the crisis that needs a broader view of global justice. By focusing on the BLA, institutional global justice cannot be realized. BLA maintains the status quo of inequality and injustice between developed and developing countries. Pursuing bilateral agreement between states does not directly address the gaps and unfair distribution of the global health system. A comprehensive multilateral approach to health labor management would be a better approach than a state-centric bilateral approach. The better alternative is to adopt multilateralism, which is the

internalized norm of interstate relations and a defining characteristic of the international community of independent states (Muldoon, 2010, p. 333). Moreover, global health strategies suggest a shift from the current transnational health system approach toward a global stock of human resources for health.

As stated above, I propose a morally justified BLA as a solution in the meantime that the goals of global justice are yet to materialize. I posit that a government-to-government arrangement is still the most practical way of managing the migration of nurses today. This is for the reason that the world politics is predominantly statist-oriented. BLAs may not be necessary if we were living in a global order that supported liberal ideas, or if we were living in Rawls' Society of Peoples. I also wish to reiterate my support for having a parallel strategy for a cosmopolitan approach to global health. On top of existing bilateral government partnerships, the inclusion of non-government organizations (NGOs) alleviates the effects of the health workforce crisis. Currently, NGOs are the most visible entities in providing health care to low-resource countries. However, it is still the primary task of the government to find long-term solutions for the human resources gaps in the health system and not remain dependent on the resources of international organizations. Governments should not be negligent in fulfilling their long-term obligation to the WHO Code of Conduct, which is to achieve and maintain a sustainable health workforce. The higher degree of preparedness of having a local stock of human resource for health, the better a country is shielded from total collapse in health emergency cases. Moreover, the statist institutional approach to solving the global health workforce crisis becomes more plausible when global institutions are seen as weak.

The COVID-19 pandemic shows a fundamental weakness of global agencies in implementing a viable multilateral strategy. A lack of multilateral and regional cooperation frameworks at the height of the pandemic crisis, gives rise to the current inward-looking approach among state governments. All countries are so severely affected that it becomes a predicament for each government to prioritize its public health resources for the domestic needs of the population. If this situation recurs in the future, the BLA – a contractualist instrument in diplomatic relations – provides a better alternative in effectively managing the movement of health personnel during emergencies.

2.3 Limits of constructivist methodology

The reformulation of the nonideal theory as a methodological process invites criticisms from Rawlsian scholars. The idealization of BLA in the previous chapter may be perceived as not grounded on real-world situation, comprehensive, or historically correct. But to realize these nonideal reconstructions of the binary relationship of representative societies, I argue that the transitional nature of nonideal theory as a methodological process befits the current practices of negotiating BLAs. A nonideal theory of justification is a methodological approach that extracts the principles of justice from ideal theory (Kang, 2016). The normative principles of justice consider factual and situated assumptions about society and human agents. The primary objective of adopting a political constructivist methodology in connection with BLAs is to achieve policy coherence. It is about attaining a broader scope of moral justification that can accommodate morally relevant facts and moral principles. More importantly, it attempts to establish institutional norms as policies that can shape an individual's life chances, and this is why the basic structure is politically conceived. Therefore, the idealized BLA is reflective of the present political situation and leaves room for readjustments until the ideal structural reform is achieved.

2.4 Feasibility test and stability

Compliance can be difficult with decent, benevolent, and outlaw societies. Tan (2006, p. 81) raises the problem of non-compliance to uphold basic human rights at any given time. Non-compliance runs the risks of jeopardizing workable diplomatic relations, which is a paramount concern among liberal and burdened societies. The compliance of the non-liberal state is a real challenge for the feasibility and stability of forging BLAs. However, the problem of non-compliance is mitigated by introducing ethically justifiable measures.

Rawls proposes that liberal societies should exercise a principle of tolerance on the non-compliance of decent peoples. To Rawls, the domestic construction in liberal societies is built on the comprehensive overlapping consensus of moral justification. Hence, liberal societies should always exercise a degree of toleration as a means to recognize non-liberal societies as equal members in the Society of Peoples (LoP, p. 59). Along this line, there are certain rights and obligations that liberal societies should observe, including the duty of civility. This duty requires that public reason is extended to other peoples in public discussion of political matters. However, it is still unclear whether burdened societies should exercise the principle of tolerance. Unlike outlaw states, burdened societies are not aggressive and are willing to support the

transition toward a liberal society. Nonetheless, Rawls' idea of toleration suggests a basic framework of a society of peoples that is structured mainly to affirm and respect the equality and freedom of all liberal and decent peoples (Tan, 2006 p. 82). Therefore, burdened societies can exercise the principle of toleration in relation to decent societies as their recognition of respect and as co-equal members of the international community.

However, it raises another objection against the feasibility for liberal peoples to enter into a fair contract with decent peoples and other non-liberal societies. Dependence on the principle of tolerance alone is a weak moral basis upon which to ensure reciprocity of respect from non-liberal members of the international community. Without stronger adherence to liberal principles of justice that can unite liberal societies working together, there is no assurance of the stability of contract in a larger conglomeration of peoples. Therefore, the moral force of the BLA is weak and unstable. In defense of Rawls, Kok-Chor Tan (2006, 81-82) understands the principle of toleration as a form of institutional virtue that facilitates the overlapping of consensus in the basic structure of a liberal society. He disputes that the idea of toleration is directly concerned with personal attitudes, but with the system of public laws and norms that individuals may impose upon each other. In negotiating BLAs, the principle of toleration operates as a moral guide for the representatives to critically engage with and judge the actions of non-liberal governments. In the final moral judgment, the feasibility of BLAs still primarily depends on the adherence of principles of justice, and the principle of tolerance as the basis of mutual respect and recognition of equality among nations in an international community. Without these elements, the BLA should not function as a foreign policy with non-liberal governments, particularly among the outcast and absolute benevolent societies.

3. LOOKING INTO THE FUTURE: BLA AND THE ROLE OF IDEAL STATESMAN

The ideal statesman is another essential element that merits attention when analyzing the feasibility of BLAs. In the remainder of this chapter I depict an ideal statesman as one who administers the implementation of an ethically justifiable BLA. The ideal statesman translates the ideal construct of foreign policy instruments into doable actions. Public reason guides an ideal statesman in performing actions with other members of the international community.

Reinventing the role of diplomats following the Rawlsian construct of ideal statesman is an essential element in pursuing an ethically justifiable BLA. In current practice the negotiation process for BLA is carried out by labor attachés, diplomats, and heads of professional agencies.

Moreover, Cabanda (2019) reveals two components in the success and failure of negotiating of BLA by the Philippine Government: 1) the technical component usually rendered by a subject matter expert, and 2) the interaction of government representatives leading to the conclusion of an agreement. Both components are considered parts of the public reasoning. Hereinunder is the statement of former Labor Secretary Rosalina Baldoz (2010-2016) that encapsulates the technical and diplomatic functions of state officials in negotiating for BLAs (WHO, 2019):

Q: So, addressing the shortage of health workers in the global market is written into national health policy?

A: That's right. As the administrator of the POEA for almost eight years and Secretary of Labor and Employment for six years, where I chaired both the POEA Governing Board and the Overseas Workers Welfare Administration Board of Trustees, I was responsible for opening the foreign markets where we send our nurses and other health workers. At the POEA, we issue policies that regulate and manage the flow of our migrant workers in more than 200 countries, including our health workers. So, we are a supplier of health workers to the world, but we also monitor and meet our domestic requirements.

Clearly, the task of negotiating BLAs requires an ideal statesman. Rawls' view of a statesman is broadly defined: "*There is no office of a statesman, as there is of the president, or chancellor, or prime minister. Instead, the statesmen are presidents or prime ministers or other high officials who, through their exemplary performance and leadership in their office, manifest strength, wisdom, and courage. They guide their people in turbulent and dangerous times*" (LoP, p. 97). Rawls' account of an ideal statesman may also refer to those public officials who are taking charge of a well-coordinated global health workforce, planning in a holistic way, and examining multilevel approaches. Given this broad definition, the role of an ideal statesman becomes broader and crucial in the feasibility test of the BLA. On this basis, the moral status of a statesman deserves further elucidation as it may invite controversial interpretations when putting into actual practice the negotiation of BLAs.

First, the ideal construct of a statesman can also be closely ascribed to Rawls' idea of public reason. The premise behind this is that political society does things due to its reasoning as an intellectual and moral power, and both are rooted in the capacities of human members (PL, p. 212 - 213). Rawls holds the view that public reason as an ideal conception of citizenship for a

constitutional democratic regime presents how things might be as they apply to citizens and officers of the government (PL, p. 216). This refers to the actions regarding how legislators pass laws in the parliament, executives in implementing public announcements, and those who decide on the question of law in a judiciary or supreme court within a constitutional democracy. In negotiating BLAs, the chosen representative carries out the goals of the society, which includes a comprehensive list of plans in the long term. Thus, the negotiators, as ideal statesmen, need to engage in local, national, and global goals to achieve sustainable health workforce.

Second, a statesman as a people's representative has the authority to interact with other people's agents. An ideal statesman is not akin to a corporate agent but to a political representative (Tan, 2006, p. 83). This specific authority to represent emanates from the domestic structure that sets conditions for a liberal foreign policy. Therefore, all actions of a statesman should be guided by the authority of a people's goals and action plan of their collective public discourse that is based on reason and rationality (LoP, p. 104). Consistent with the idea of public reason, the ideal statesman in a cooperative society also demands an institutional view of toleration of an agent. Public reason also applies to take people as just, and a well-ordered society would encourage them to be (LP, p. 217). It describes what a statesman can do in performing the duties of carrying out a liberal foreign policy. The representatives of liberal peoples have to show respect for decent peoples even if they do not, in their private capacity, respect these peoples. Statesmen, in their private and personal capacities, may of course, individually or in private associations, criticize decent peoples and voice their opposition to them within the rules of the basic structure of the society of peoples (Tan, 2006 p. 83). The support for BLAs is not a moral standard imposed on the ideal statesman for the conduct of their private affairs with non-liberal peoples. It is instead an expression of support to the will and confidence of the people in their government in pursuing ethically acceptable BLAs.

Chapter Eight

Summary, conclusion, and recommendations

The last chapter summarizes the main findings of my dissertation that lead to a conclusion on the ethical justification of the BLA as a policy measure for the managed migration of Filipino nurses. Future basic research and policy implications are also offered that may provide national and global guidance regarding the governance of the migration of Filipino nurses.

1. SUMMARY OF FINDINGS

Based on the research objectives outlined in the introductory chapter, the main findings are summarized below:

1.1 BLA as a migration policy

The practice of BLA dates back to the American Government's colonization of the Philippines that resulted in contract labor migration regarding both skilled and unskilled labor migrants. The prevailing system of American education and professional exchange training paved the way for the first wave of emigration of nurses from the Philippines to the United States. The relaxation of migration policies that later transpired in the United States in the 1960s also changed the migration pattern of Filipino nurses. BLAs have developed into an organized recruitment of locally-trained nurses through direct involvement of US hospitals and privately-owned recruitment and placement agencies. However, the practice of contract labor migration expanded to Asia and Europe in the latter part of the 20th century. These changes in migration policies have resulted in a massive diaspora of Filipino nurses across the world.

State-sanctioned migration policies on education, training, recruitment, and deployment have contributed to a commodification of nurses. Strategic marketing of Filipino nurses *via* international agencies resulted in an increased number of developed countries opening their doors for Filipino health professionals due to a shortage of health workers. After decades of labor export, in 1995 the Philippine government adopted a legal framework by which the BLA is construed as one of the pillars of its foreign policy. The main objective is to prevent that past abuses and oppressive practices in contract labor migration are repeated. BLAs are intended to

promote and protect the dignity, rights, and welfare of every migrant Filipino worker. In 2010, the Philippine Government has succeeded in promoting the BLA as part of its commitment to implement the WHO Code of Practice as the standard template for the ethical recruitment of international health workers.

However, the practice of diplomatic negotiations leading up to BLAs is facing serious challenges. BLAs turn out to be another form of contract labor migration implemented by governments without due respect for the risk of creating health inequities. A growing need for foreign healthcare workers in most developed countries means that Filipino health workers and BLAs will continue to be attractive at the global labor market, and the importance remains of ensuring that these contracts are fair. The BLA carries morally problematic issues and may reinforce the current health workforce crisis. The narratives of migrant Filipino nurses also reveal the social costs of their mobility. Thus, this dissertation argues that the current practice surrounding the use of the BLA should be subjected to the Rawlsian principles of justice.

1.2 Fairness in a contract situation

Rawls' theory of justice is used as the theoretical framework to analyze the ethical practice of BLAs in managed migration of Filipino nurses. Drawing on the theory of Rawls, it has been shown that in order to be fair, BLAs should adhere to the main principles of justice. The ethical assessment of the BLA pays attention to subjective attitudes held by stakeholders and the principles of justice. In a reflective inquiry, the Rawlsian principles of justice are employed to restructure the unfair background condition current underlying BLAs. BLAs should follow the moral principles of fairness as part of the basic structure of a liberal society.

The priority of the principle of equal liberty in a contract situation shows the need to a guarantee for the protection for civil liberties for every individual. These liberties are translated in a work contract that will set the terms of fair work standards for nurses. The first part of the second principle of democratic equality affirms equal opportunity of all members in a liberal society. It requires the institutions of both the origin and destination countries to address the fair access to opportunity on the basic civil liberties of migrant nurses. The health workforce crisis is mainly institutional in origin, and so, the BLA will demand political responsibility from the government itself. The second part recognizes the difference principle, which regulates inequities in a society and only accepts such inequities in favor to the most disadvantaged population group if the BLA is implemented. The application of the main principles of justice in a fair contract situation spells out the content of the political responsibility of government

institutions. Both origin and destination countries are required to adopt BLA as the policy for managing the mobility of nurses.

1.3 Duty of assistance as shared political responsibility

The health inequities caused by the large-scale emigration of nurses brokered by the government of an origin country are often overlooked in the current implementation strategies for the BLA. In addition to achieving an ethical recruitment process for every migrant nurse, the BLA should comply with the duty of assistance. It is important to point out that the DoA in a BLA is not a mechanism for wealth distribution. Instead, it should be considered as a form of shared political responsibility of contracting governments based on Rawls' three guidelines intended to help a burdened society. The adoption of these guidelines to promote an asset-based DoA will optimize existing assets of burdened societies, particularly in maximizing the potential uses of remittances, aid transfers, and foreign direct investments. These existing assets have not been optimized for the reason that the institutions in a burdened society are too weak to facilitate for its use in national development. Through the DoA, these assets are taken to be a facilitator of liberal ideas as well as of human rights in burdened societies. But the DoA is bound to be satisfied by liberal societies based on the limited guidelines that Rawls suggested in extending help to burdened societies.

Migrant nurses themselves are seen as agents who bear a certain degree of political responsibility in carrying out the duty of assistance in their origin countries. Returning migrants are important players in institutional reforms for burdened societies to transition into a liberal regime, in which human rights are respected, promoted, and advanced. There are several ways in which returning nurses can contribute to and complement the government's institutional reforms. Of particular importance is the technical expertise that they can render to overhaul the health and education systems of a burdened society.

1.4 BLA is feasible and stable

Having considered a set of morally relevant facts and relevant ethical principles, a suggestion as to an ethically justifiable BLA has been reached. The ideal BLA is a contract device that guides policymakers in solving moral problems found in a non-ideal situation. Therefore, it is corrective and sensitive to the operational context to which it is applied. Certainly, the primary objective of an ideal BLA is to provide a remedy to the moral problems found in the current practice of BLAs concerning nurse migration. However, there are non-ideal

scenarios that will test the feasibility of the BLA as well as situations that prohibit governments from contracting BLAs with outlaw and benevolent societies. In relation to adopting a liberal foreign policy, the ideal statesman will carry out the political responsibility in negotiating fair terms of BLAs with other countries.

2. CONCLUSION

The BLA, as a policy solution in the management of nurse migration, is ethically justified as long as it meets the four conditions of contractual fairness.

- a) First, the BLA as a migration policy, in its current form and practice, cannot be given an ethical justification. The main reason that existing BLAs should be the subject of justice is because they affect the life-course of migrant nurses and the public health interest that state governments should promote, protect, and preserve.
- b) Second, to ensure fairness in the contract situation, BLAs should follow both institutional principles and procedural approaches to justice. The BLA is morally acceptable if it meets certain conditions of fairness in the application of the principles of justice in the final contract. Negotiations at obtaining BLA should adhere to a fair contract procedure. Initially, the principles of equal liberty and fair equality of opportunity are applied such that the equal moral worth of migrant nurses is recognized and that their basic liberties are acknowledged, protected, and preserved. In this way the ethical objections regarding the unfair background condition of nurses, as described in the introductory chapter, are answered. Moreover, the health workforce crisis is being addressed by the difference principle. The main principles of justice bring in the institutional character of the BLA tasked to regulate the inequities that it may create in favor of the worst-off population.
- c) Third, the DoA requires that both origin and destination countries in BLAs address potential health inequities. As a foreign policy instrument, the BLA carries out the DoA, which assigns shared political responsibility to each contracting government. The DoA highlights the institutional form of assistance that supports, facilitates, and transforms the potential of a burdened society to become a stable liberal society.

- d) Finally, the ideal BLA must be politically feasible and stable over time. This means that BLAs can operate only if both governments agree to uphold the main principles of justice in a contract situation.

In conclusion, satisfying these main conditions are vital to the ethical acceptance of the BLA as a migration policy instrument to potentially address the global health workforce crisis.

3. RECOMMENDATIONS FOR FUTURE RESEARCH AND POLICY

The moral justification of allowing the use of BLAs is just one element of the options available in the policy toolbox for addressing the health workforce crisis in the Philippines, and to a certain extent, in the global context. Although it has been suggested that BLAs can be considerably justified as an ethical policy instrument, there are other theoretical and practical imperatives stemming from this research that may be instructive for future studies and policy changes.

From an ethical perspective, Rawls' moral justification for allowing the BLA has to do mainly with the institutional aspects. However, the role of public reason in the BLA, which will rely for the most part on how labor diplomats will carry out the principle of justice, needs to be illuminated in future studies. This will bring out the critical role of democratic participation in monitoring and assessing the implementation of BLAs by diplomats. Therefore, further investigation of the BLA in this regard will reveal the extent of its feasibility and stability as a policy solution for achieving a sustainable global health workforce. This is also in consideration of clearing out the anticipated objections discussed in the previous chapter. As of this writing there is limited empirical evidence to complement the normative argument on the role of public reason in the stability and feasibility of BLAs.

For the public health domain, workplace retention strategies are equally important as pursuing ethically justifiable recruitment policies. No matter how a destination country can address the labor figures called for to fill the shortage of health workers, it will be untenable to justify if it lacks foresight in keeping nurses to remain in their positions. The poor retention problem is an emerging concern that professional health leaders and other stakeholders in the health and labor industry sectors in destination countries have long been drawing attention to. Otherwise, governments will just be repeating the same mistake of creating high turnover rates

due to weak retention policies in the workplace. This feature is a limitation of the current study, but can be a worthwhile future research imperative.

4. SIGNIFICANCE OF THE STUDY

An important contribution of this thesis is that it combines descriptive studies with normative analysis in the ethical justification of the BLA. Proposed herein are ethical principles that can help identify aspects that must be safeguarded in policymaking and the creation of BLAs for health labor migration. These are also tools that can be used to assess the fairness of BLAs that are already established. By their merits and drawbacks, different BLAs can be compared – in particular, the BLA that is endorsed by the WHO Code of Practice.

This dissertation also responds to a call for a more substantial impact of migration research about expanding the influence of theoretical knowledge to real-world problems by which the empirical and normative traditions can contribute more in pursuing their public engagement roles. Challenges from contemporary migration grow more complex. Several perspectives are therefore needed if our goal is to improve the present structure of migration.

At the practical level, labor attachés and diplomats, who in the future will negotiate BLAs, will now be guided by the main principles of justice in ensuring the fairness of a contract with other governments. This is also relevant to the ongoing reforms of both domestic and international migration policy directives of governments. For origin countries, governments can learn from the ethical consequences of treating the deployment of health workers as a national human resource development strategy. They can revisit this kind of labor development strategy based on the account of fairness and political responsibility. On the same note, destination countries should reframe their policies on health, migration, and international affairs to be more responsibility-sensitive for the ethical consequences of actively recruiting foreign-trained nurses. Destination countries with falling retention rates of health workers that have opted to use BLAs as a stop-gap solution to their health workforce shortfalls can take stock of the findings of this research. A major step forward is to revisit their existing BLAs using the moral justification used in this dissertation as a tool for ethical analysis.

The inclusion of the principle of DoA in BLAs contributes to the global effort to ensure the effectiveness of development aid and foreign direct investments. A DoA-based BLA supports the realization of the health, migration, and development outcomes of the 2030 Sustainable Development Goals. Attaining a sufficiency ratio of health professionals over a

given population is one of the target indicators for health-related development goals that also interacts with other goals for decent work and safe and orderly migration. The arguments that were presented herein can be useful inputs in current efforts to bridge policy options (in this case the BLAs) to sustainable development.

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Appendices

Appendix A

Abstracts/overview of the list of publications included in systematic review

Level of analysis: Individuals / Background condition of Filipino nurses Thematic code: Moral problems in the production nurses	
	<p><i>Topical code: Production of nurses as investment</i></p> <p>Prescott, M.M., 2016. Providers for the household and nation: The localized production and migration of Filipino nurses.</p> <p>In the context of increasing nursing labor shortages around the world, the Philippines has become a major producer and exporter of nurses, with 85 percent of employed Filipino nurses working outside of the Philippines. Based on 12 months of ethnographic research in a provincial center for nursing education and healthcare in Northern Luzon, Philippines, I utilize a global nurse care chain (Yates 2004a, 2009a) framework to explore transnational nurse migration out of the Philippines through the experiences of nurses, nursing students, their families and other stakeholders in nurse production and migration. As a more local GNCC analysis, the present study traces the production and provision of nursing care labor through the family and local and transnational household, to formal training and nursing experiences in educational and health institutions, and through other encounters with state, private, and international agencies that facilitate and shape the experiences and subjectivities of migrant nurses. Chapter 2 traces the relationship between the production and migration industries and between these industries and the state, exploring the ways that both the healthcare landscape and experiences of new nursing graduates (as consumers and laborers) has been shaped by migration booms and busts. Chapters 3 and 4 examine the household as a site of nurse production and the role of the household's moral economy and structures of feeling (Williams 1977). In Chapter 3, I examine nursing students' narratives of choice in the decision to study nursing and argue that obligation to family and reciprocal financial and emotional relationships underlie nurse production. In Chapter 4, I explore the ways that nurses and students imagine their future lives and identities as migrant nurses, illustrating how subjectivities are shaped by a legacy of transnational migration, imagination, and family moral economy. In Chapter 5, I use the narrative of a returned migrant nurse to illustrate the long-term impacts of past and temporary migration, and the ways that returned migrants may construct their identities through remembering. The final chapter explores the nurse migration industry through recruitment agents and nurses navigating this privatized industry as they pursue migration opportunities. Beyond an ethnography of nursing students', nurses' and their families' experiences of nurse training and migration processes, this dissertation focuses the roles of the state, private industry, and family in the mobilization of gendered and filial subjectivities to stimulate nurse production and migration, and explores the complex effects of unregulated nurse migration industries on students, nurses, and families as consumers and laborers.</p>
	<p>Ronquillo, C., et al. (2011). "Beyond greener pastures: exploring contexts surrounding Filipino nurse migration in Canada through oral history." <i>NURSING INQUIRY</i> 18(3): 262-275</p> <p>The history of immigrant Filipino nurses in Canada has received little attention, yet Canada is a major receiving country of a growing number of Filipino migrants and incorporates Filipino immigrant nurses into its healthcare workforce at a steady rate. This study aims to look beyond the traditional economic and policy analysis perspectives of global migration and beyond the push and pull factors commonly discussed in the migration literature. Through oral history, this study explores biographical histories of nine Filipino immigrant nurses currently working in British Columbia and Alberta, Canada. Narratives reveal the instrumental role of the deeply embedded culture of migration in the Philippines in influencing Filipino nurses to migrate. Additionally, the stories illustrate the weight of cultural pressures and societal constructs these nurses faced that first colored their decision to pursue a career in nursing and ultimately to pursue emigration. Oral history is a powerful tool for examining migration history and sheds light on nuances of experience that might otherwise be neglected. This study explores the complex connections between various factors motivating Filipino nurse migration, the decision-making process, and other pre-migration experiences.</p>

3	<p>Lupdag-Padana, E. A., et al. (2014). "An Approximation of the Internal Rate of Return of Investment in Selected Undergraduate Degree Programs." <i>DLSU Business & Economics Review</i> 23(2): 88-114.</p> <p>The situation of a typical Filipino household, overseas employment, and the culture of migration are deemed as determinants for investing in higher education such as in the specialized fields of accountancy, education science and teacher training, engineering, and nursing. We examine both local and international labor demand for accountants, teachers, engineers, and nurses as well as its underlying implications on the exodus of professionals. As such, the determination of the internal rate of return to investment is of crucial importance to households to fully maximize educational opportunities and for the government and other institutions to confront this globally-changing situation. Using a combination of quantitative and qualitative analysis, we compute for the internal rates of return of investment of the mentioned degree programs. Results have shown that the relatively high rates of return are incentives to practice profession abroad despite various delays.</p>
4	<p>Arends-Kuening, M. P., et al. (2015). <i>International Migration Opportunities and Occupational Choice: A Case Study of Philippine Nurses 2002 to 2014</i>, Institute for the Study of Labor (IZA).</p> <p>We analyze trends in nursing education in the Philippines during a period of rising and falling demand for Philippine nurses in the developed countries. Based on focus group discussion data obtained in the Philippines, we examine students' motivations to become nurses and to what extent their choices were affected by the possibility of international migration. The number of nursing graduates rose, resulting in brain gain. However, policies promoting the migration of skilled workers such as nurses impose high costs on middle class and lower class families who invest in education hoping that a family member will be able to migrate.</p>
5	<p>Alonso-Garbayo A(I), Maben J. Internationally recruited nurses from India and the Philippines in the United Kingdom: the decision to emigrate.</p> <p>This paper challenges the restricted economic focus of this predominant theory and compares the diverse motivations of nurses from different countries as well as those of nurses with previous migratory experience and first-time migrants. This study shows the diverse motivations of nurses from different countries and with different migratory backgrounds and provides evidence that factors other than economic factors influence nurses' decision to emigrate. This information can help developing countries increase retention of this essential and often scarce resource and can also help the United Kingdom's National Health Service to improve the experience of internationally recruited nurses and therefore increase their retention in the United Kingdom.</p>
6	<p>Galvez Tan, J., Sanchez, F. and Balanon, V., 2005. <i>The Brain Drain Phenomenon and its Implications to Health</i>.</p> <p>The Philippines has traditionally been a major source of health professionals to many countries. Because of their fluency in English, this language being the major tuition of their health sciences education, and largely due to their world-renowned people skills in practicing compassion, humanness, and patience in caring, Filipino nurses and doctors have been in great demand globally for the past four decades. I will explore the multi-faceted causes of the situation and discuss the major consequences in the health care delivery system in the Philippines. Strategic solutions, to be acted upon globally and nationally, are recommended to mitigate an impending health crisis as well as avert, in the long-term, a health human resources disaster.</p> <p>The Philippines is a country of beauty,abounding in natural and human resources. However, since the two decades of the Marcos dictatorship, the country has been unable to maintain its economic, political, and social standing it had in the 1950's and 1960's. The country was the second biggest economy in Asia, second only to Japan, and the center of learning for many students and professionals from all Asian countries. Today it is a mixture of various crises: the fiscal and budget crisis, the population crisis, and a health human resources crisis. To avert the health crisis arising out of the HHRD crisis, there is a need for solidarity with the importing countries of the North. However, such global and bilateral actions must be matched by national political will to institute the strategic solutions at the country level. The long-term and short-term solutions have been laid out. The situation is just waiting for political will and action.</p>
7	<p>Dimaya Roland, M., et al. (2012). "Managing health worker migration: a qualitative study of the Philippine response to nurse brain drain." <i>Human Resources for Health</i>, Vol. 10, Iss 1, p.47 (2012)(1): 47.</p> <p>The emigration of skilled nurses from the Philippines is an ongoing phenomenon that has impacted the quality and quantity of the nursing workforce, while strengthening the domestic economy through remittances. This study examines how the development of brain drain-responsive policies is driven by the effects of nurse migration and how such efforts aim to achieve mind-shifts among nurses, governing and regulatory bodies, and public and private institutions in the Philippines and worldwide. Interviews and focus group discussions were conducted to elicit exploratory perspectives on the policy response to nurse brain drain. Interviews with key informants from the nursing, labour and immigration sectors explored key themes behind the development of policies and programmes that respond to nurse migration. Focus group discussions were held with practising nurses to understand policy recipients' perspectives on nurse migration and policy. Using the qualitative data, a thematic framework was created to conceptualize participants' perceptions of how nurse migration has driven the policy development process. The framework demonstrates that policymakers have recognised the complexity of the brain drain phenomenon and are crafting dynamic policies and programmes that work to shift domestic and global mindsets on nurse training, employment and recruitment. Development of responsive policy to Filipino nurse brain drain offers a glimpse into a domestic response to an increasingly prominent global issue. As a major source of professionals migrating abroad for employment, the Philippines has formalised efforts to manage nurse migration. Accordingly, the Philippine paradigm, summarised by the thematic framework presented in this paper, may act as an example for other countries that are experiencing similar shifts in healthcare worker employment due to migration.</p>

	<i>Topical code: Aspirations for better living</i>
8	<p>Marcus K(1), Quimson G, Short SD. Source country perceptions, experiences, and recommendations regarding health workforce migration: a case study from the Philippines.</p> <p>Health workforce migration is perceived to have both positive and negative consequences. On the one hand, emigration offers a welcome opportunity for individual Filipino nurses to migrate abroad in order to achieve economic, professional, lifestyle, and social benefits. On the other, as senior and experienced nurses are attracted overseas, this results in the maldistribution of health workers particularly affecting rural health outcomes for people in developing countries. Problems such as 'volunteerism' also emerged in our study.</p> <p>In the context of the WHO (2010) Code of Practice on the International Recruitment of Health Personnel it is to be hoped that, in the future, government recruiters, managers, and nursing leaders can utilise these insights in designing recruitment, orientation, and support programmes for migrant nurses that are more sensitive to the experience of the Philippines' education and health sectors and their needs.</p>
9	<p>Castro-Palaganas E(1), Spitzer DL(2), Kabamalan MM(3), Sanchez MC(4), Carriativo R(5), Rummels V(6), Labonté R(7), Murphy GT(8), Bourgeault IL(9). Hum Resour Health. 2017 Mar 31;15(1):25. doi: 10.1186/s12960-017-0198-z. An examination of the causes, consequences, and policy responses to the migration of highly trained health personnel from the Philippines: the high cost of living/leaving-a mixed method study.</p> <p>Filipino health worker migration is best understood within the context of macro-, meso-, and micro-level factors that are situated within the political, economic, and historical/colonial legacy of the country. Underfunding of the health system and un- or underemployment were push factors for migration, as were concerns for security in the Philippines, the ability to practice to full scope or to have opportunities for career advancement. The migration of health workers has both negative and positive consequences for the Philippine health system and its health workers. Stakeholders focused on issues such as on brain drain, gain, and circulation, and on opportunities for knowledge and technology transfer. Concomitantly, migration has resulted in the loss of investment in human capital. The gap in the supply of health workers has affected the quality of care delivered, especially in rural areas. The opening of overseas opportunities has commercialized health education, compromised its quality, and stripped the country of skilled learning facilitators. The social cost of migration has affected émigrés and their families. At the household level, migration has engendered increased consumerism and materialism and fostered dependency on overseas remittances. Addressing these gaps requires time and resources. At the same time, migration is, however, seen by some as an opportunity for professional growth and enhancement, and as a window for drafting more effective national and inter-country policy responses to HRH mobility.</p> <p>Unless socioeconomic conditions are improved and health professionals are provided with better incentives, staying in the Philippines will not be a viable option. The massive expansion in education and training designed specifically for outmigration creates a domestic supply of health workers who cannot be absorbed by a system that is underfunded. This results in a paradox of underservice, especially in rural and remote areas, at the same time as underemployment and outmigration. Policy responses to this paradox have not yet been appropriately aligned to capture the multilayered and complex nature of these intersecting phenomena.</p>
10	<p>Labarda Meredith, P. (2011). "Career shift phenomenon among doctors in tacloban city, philippines: lessons for retention of health workers in developing countries." Asia Pacific Family Medicine, Vol 10, Iss 1, p 13 (2011)(1): 13.</p> <p>At the height of the global demand for nurses in the 1990s, a phenomenon of grave concern arose. A significant number of medical doctors in the Philippines shifted careers in order to seek work as nurses overseas. The obvious implications of such a trend require inquiry as to the reasons for it; hence, this cross-sectional study. The data in the study compared factors such as personal circumstances, job satisfaction/dissatisfaction, perceived benefits versus costs of the alternative job, and the role of social networks/linkages among doctors classified as career.</p> <p>A combined qualitative and quantitative method was utilized in the study. Data gathered came from sixty medical doctors practicing in three major hospitals in Tacloban City, Philippines, and from a special nursing school also located in the same city. Respondents were chosen through a non-probability sampling, specifically through a chain referral sampling owing to the controversial nature of the research. A set of pre-set criteria was used to qualify doctors as shifters and non-shifters. Among the different factors investigated, results of the study indicated that the level of job satisfaction or dissatisfaction and certain socio-demographic factors such as age, length of medical practice, and having children to support, were significantly different among shifters and non-shifters at $p \leq 0.05$. This suggested that such factors had a bearing on the intention to shift to a nursing career among physicians. Taken in the context of the medical profession, it was the level of job satisfaction/dissatisfaction that was the immediate antecedent in the intention to shift careers among medical doctors. Personal factors, specifically age, support of children, and the length of medical practice gained explanatory power when they were linked to job satisfaction or dissatisfaction. On the other hand, factors such as perceived benefits and costs of the alternative job and the impact of social networks did not differ between shifters and non-shifters. It would then indicate that efforts to address the issue of physician retention need to go beyond economic incentives and deal with other sources of satisfaction or dissatisfaction among practicing physicians. Since this was an exploratory study in a particular locale in central Philippines, similar studies in other parts of the country need to be done to gain better understanding of this phenomenon at a national level</p>
	Level of analysis: State

	Thematic code: Origin state's moral failings
	Topical code: Public system failure
11	<p>Labrague, L. J., et al. (2018). "Factors influencing turnover intention among registered nurses in Samar Philippines." <i>Applied Nursing Research</i> 39: 200-206.</p> <p>Despite the massive nurse migration and turnover of nurses in the Philippines, there remains a lack of studies describing factors influencing the migration of Filipino nurses. This study explored the effects of nurses' characteristics, work satisfaction, and work stress with the intent to leave an organization among registered nurses in the Philippines.</p> <p>Nurses' ages were found to significantly influence their turnover intentions. Job satisfaction strongly predicted turnover intentions in the nurses. The mean values for the job satisfaction scale, job stress scale, and turnover intention inventory scale were 3.13 (SD=0.60), 2.74 (SD=0.71), and 2.43 (SD=0.67) respectively. Several predictors of turnover intentions were determined in this study through nurses' age, job satisfaction, and job stress as being the most influential factors. Efforts to increase nurses' job satisfaction and reduce job stress should be implemented to halt further loss of these skilled groups of healthcare professionals. Younger nurses have higher intentions to leave their current organization as compared to the older ones. •Nurses who had baccalaureate degree and with a few years of work experience had higher turnover intention scores. •Workplace stress and job satisfaction had a significant impact on the nurses' decision to leave their organization.</p>
12	<p>Amparado, M.A.P. and Fuentes, A.C., 2013. Migration Factors of Clinical Instructors in a University. <i>IAMURE International Journal of Social Sciences</i>, 8(1), pp.1-1.</p> <p>The worldwide shortage of nurses, which results from a global undersupply and high attrition rates, affects developed countries in the West the same way as it affects developing countries in Asia, Africa and Latin America. The difference lies in the fact that developing countries serve as a readily available source of trained nurses for developed countries in Europe, North America and parts of Oceania. Thus, the ongoing nursing shortage in developing countries is worsened by a loss of thousands of trained nurses every year to emigration. This study identified the migration factors of Clinical Instructors in a university of Cebu City, Philippines. Utilizing 100 clinical instructors as respondents, the study reveals that the majority were 25-28 years old; female; single; 0-5 years of work service; with units in a master's program; belonged to a nuclear family; has no child; with monthly income of Php10,000-Php20,000; has taken foreign nursing examinations; and intended to migrate to Canada. The top three push factors of migration were low salary, absence of overtime and hazard pays, and limited opportunities for employment. Top three pull factors were higher income, better benefits and compensation package, a chance to upgrade nursing skills, and opportunity to travel and learn other cultures.</p>
13	<p>Publico, M.R., 1972. A survey on attitude of Filipino nurses towards nursing profession in the Philippines. <i>The Philippine journal of nursing</i>, 41(3), p.107.</p> <p>Through the years, there has been a considerable faltering of the prestige of local nurses. This is mainly attributed to their poor working conditions in hospitals, which is in sharp contrast to the glamorized status of the nursing profession that has been a defining characteristic of Filipino modernity during the American period.</p>
14	<p>De Castro, A.B., Cabrera, S.L., Gee, G.C., Fujishiro, K. And Tagalog, E.A., 2009. Occupational health and safety issues among nurses in the Philippines. <i>Aachn Journal</i>, 57(4), pp.149-157</p> <p>Nursing is a hazardous occupation in the United States, but little is known about workplace health and safety issues facing the nursing work force in the Philippines. In this article, work-related problems among a sample of nurses in the Philippines are described. Cross-sectional data were collected through a self-administered survey during the Philippine Nurses Association 2007 convention. Measures included four categories: work-related demographics, occupational injury/illness, reporting behavior, and safety concerns. Approximately 40% of nurses had experienced at least one injury or illness in the past year, and 80% had experienced back pain. Most who had an injury did not report it. The top ranking concerns were stress and overwork. Filipino nurses encounter considerable health and safety concerns that are similar to those encountered by nurses in other countries. Future research should examine the work organization factors that contribute to these concerns and strengthen policies to promote health and safety.</p>
	Topical code: Political turmoil
15	<p>Allgood, J. A. 2001. Filipino nurses at Baylor University Medical Center: personal recollections. <i>Baylor University Medical Center Proceedings</i>, 14, 406-409.</p> <p>In a public address, Allgood (2001) recalls herself as a young nurse who was deeply concerned about the possible rise of a dictator with the imposition of Martial Law in 1972. The political turmoil gave her a reason to migrate to the United States and she took advantage of the active recruitment at her university. The same also occurred with regard to the migration of Filipino nurses to the United Kingdom.</p>
	Galvez Tan, J., Sanchez, F. and Balanon, V., 2005. The Brain Drain Phenomenon and its Implications to Health, same as the previous.
	Topical code: Migration and opportunity traps
16	<p>Yasmin, Y. O. (2018). "Learning to Fill the Labor Niche: Filipino Nursing Graduates and the Risk of the Migration Trap."</p>

	Overseas recruitment has become a common strategy in filling nurse shortages within U.S. health institutions, sparking the proliferation of nursing programs in the Philippines. Export-oriented education exacerbates a mismatch, however, between available jobs (in both the Philippines and the United States) and the number of nursing graduates, thus increasing joblessness and underemployment among Filipino youth. Pursuing higher education as a means to migrate also puts Filipino students at risk of getting caught in a migration trap, where prospective migrants obtain credentials for overseas work yet cannot leave when labor demands or immigration policies change. Such problems highlight the complicated impact of immigrant labor niches in places like the United States on developing nations, beyond the brain drain narratives that dominate academic and policy discussions.
17	<p>Pring, C. And Roco, I., 2012. The volunteer phenomenon of nurses in the Philippines. <i>Asian Journal of Health</i>, 2(1), pp.95-110.</p> <p>Graduate nurses are now facing massive unemployment and underemployment. Statistics of unemployed Filipino nurses hit 150,000 in 2008. Newly licensed nurses would volunteer to work in the hospitals to get the needed experience and training. The Philippine Nurses Association (PNA) claims that volunteer nurses are being exploited by requiring volunteers to pay a fee at the same time availing of the volunteers' professional services. This study aims to explore the nature of volunteer programs and to measure the volunteer nurses' level of self-concept. Utilizing both quantitative and qualitative methods, the respondents were chosen using purposive sampling technique. Focused group discussions (FGD) with volunteer nurses and interview with hospital administrators were both utilized. Questionnaire on Professional Self Concept Scale was used. Data were analyzed using SPSS and Pearson R. The result of the study showed that newly graduate nurses enter into volunteerism program offered by different hospitals to gain clinical experience for future employment. This study concludes that graduate nurses are most likely to volunteer because of lack of opportunity to work.</p>
18	<p>Yumol, B. B. (2010). A humanist approach to understanding the migration of Filipino nurses to the United States. <i>US, ProQuest Information & Learning</i>. 70: 4769-4769.</p> <p>The global nursing shortage created opportunities for registered nurses from less developed countries to improve their working and living conditions through migration to more progressive and affluent nations. In the Philippines, this phenomenon left the country devoid of the much needed health care professionals. In this research study, I described the lived experiences of eleven indigenous Filipino nurses who migrated to the United States. Through the phenomenology approach, I was able to probe into the meaning of the migration as the participants lived through it, approaching it from a humanist perspective and using Abraham Maslow's theory on the hierarchy of needs as the framework. The study was intended to illustrate how the economic, social, and political characteristics of both countries impacted the Filipino nurses' behavior and thought processes while in pursuit of personal goals. Ultimately, this study could be used as a guide in the development of employment and health care policies that are more responsive to the current state of the nursing profession. (PsycINFO Database Record (c) 2016 APA, all rights reserved)</p>
	Topical code: Public health system
19	<p>Lorenzo, F. M., et al. (2007). "Nurse migration from a source country perspective: Philippine country case study." <i>Health Serv Res</i> 42(3 Pt 2): 1406-1418.</p> <p>The Philippines is a job-scarce environment and, even for those with jobs in the health care sector, poor working conditions often motivate nurses to seek employment overseas. The country has also become dependent on labor migration to ease the tight domestic labor market. National opinion has generally focused on the improved quality of life for individual migrants and their families, and on the benefits of remittances to the nation. However, a shortage of highly skilled nurses and the massive retraining of physicians to become nurses elsewhere has created severe problems for the Filipino health system, including the closure of many hospitals. As a result, policy makers are debating the need for new policies to manage migration such that benefits are also returned to the educational institutions and hospitals that are producing the emigrant nurses.</p> <p>There is new interest in the Philippines in identifying ways to mitigate the costs to the health system of nurse emigration. Many of the policy options being debated involve collaboration with those countries recruiting Filipino nurses. Bilateral agreements are essential for managing migration in such a way that both sending and receiving countries derive benefit from the exchange.</p>
20	<p>Matsumo, A., 2009. Nurse migration: the Asian perspective. <i>ILO/EU Asian Programme on the Governance of Labour Migration</i>.</p> <p>Asian countries will continue to grow as source countries to dispatch nurses to developed countries such as the U.S. and the U.K. At least from the top three countries for exporting nurses, the Philippines, India and China, the movement of nurses are supported by the mutual interests from sending countries and receiving countries. While the efforts for the host countries to recruit nurses from overseas has intensified, the efforts for the source countries to send nurses also abroad have increased, and become more commercialized. It seems that a whole new business infrastructure has emerged at both ends to respond to the growing business opportunities. However, in the surge of such development, one might have to consider the impact that the sending countries might have in losing a large proportion of the nursing work force to other countries. In the case of Philippines studies already report negative impacts in its health care system. It is reported that for the last three years, 10 per cent of 2,500 public hospitals in the Philippines have closed down due to lack of doctors and nurses⁵¹. Private hospitals face the same challenges since 1,000 out of 1,700 hospitals are reported to have closed down over the last five years⁵².</p>
21	<p>Castro-Palaganas E(1), Spitzer DL(2), Kabamalan MM(3), Sanchez MC(4), Carriativo R(5), Rummels V(6), Labonte R(7), Murphy GT(8), Bourgeault IL(9). An examination of the causes, consequences, and policy responses to the migration of highly trained health personnel from the Philippines: the high cost of living/leaving-a mixed method study. <i>Hum Resour Health</i>. 2017 Mar 31;15(1):25. doi: 10.1186/s12960-017-0198-z.</p>

	<p>Filipino health worker migration is best understood within the context of macro-, meso-, and micro-level factors that are situated within the political, economic, and historical/colonial legacy of the country. Underfunding of the health system and un- or underemployment were push factors for migration, as were concerns for security in the Philippines, the ability to practice to full scope or to have opportunities for career advancement. The migration of health workers has both negative and positive consequences for the Philippine health system and its health workers. Stakeholders focused on issues such as on brain drain, gain, and circulation, and on opportunities for knowledge and technology transfer. Concomitantly, migration has resulted in the loss of investment in human capital. The gap in the supply of health workers has affected the quality of care delivered, especially in rural areas. The opening of overseas opportunities has commercialized health education, compromised its quality, and stripped the country of skilled learning facilitators. The social cost of migration has affected émigrés and their families. At the household level, migration has engendered increased consumerism and materialism and fostered dependency on overseas remittances. Addressing these gaps requires time and resources. At the same time, migration is, however, seen by some as an opportunity for professional growth and enhancement, and as a window for drafting more effective national and inter-country policy responses to HRH mobility.</p> <p>Unless socioeconomic conditions are improved and health professionals are provided with better incentives, staying in the Philippines will not be a viable option. The massive expansion in education and training designed specifically for outmigration creates a domestic supply of health workers who cannot be absorbed by a system that is underfunded. This results in a paradox of underservice, especially in rural and remote areas, at the same time as underemployment and outmigration. Policy responses to this paradox have not yet been appropriately aligned to capture the multilayered and complex nature of these intersecting phenomena.</p>
22	<p>Marcus, K., et al. (2014). "Hardworkers': Filipino nurses' professional practice in Queensland." <i>Asia Pacific Journal of Health Management</i> (1): 28.</p> <p>The Philippines is one of the leading providers of nurses to the world with a Government policy supporting nurse export in exchange for remittances to the country. This paper assesses Filipino-qualified nurses who secured registered nursing status in Australia, on their sector of employment, their level of labour market integration and their level of theoretical knowledge, clinical and cross-cultural communication skills.</p> <p>Directors of Nursing, Senior Managers, peers and Filipino qualified registered nurses who were employed in the public sector in Queensland [Australia] were interviewed. Questions included Filipino nurses and their communication skills, knowledge in theory, clinical and medication skills, and their migration and transition into the Australian culture. All interviews were recorded, transcribed and coded for thematic analysis.</p> <p>Nineteen participants were interviewed with key themes emerging in migration, nursing theory and communication skills. 100% of participants described Filipino nurses as conscientious hard workers. The majority of Filipino nurses arrived in Australia after working in the United Kingdom. While their clinical skills were considered good, their knowledge of nursing theory was considered to be lacking. There was concern that our sample was skewed towards highly educated Filipino nurses, which is atypical according to the literature. Problems with understanding the Australian language accent and slang was a common issue for Filipino nurses when arriving in Australia.</p> <p>This project was novel incorporating Queensland Health and key informants in the Philippines, providing new evidence about the transition and employment outcomes of Filipino registered nurses in Australia. This research contributes to health worker migration to Australia from source countries like the Philippines and encourages an ethical system for recruitment. The release of the WHO Code of Conduct for International Health Professional Recruitment in 2011, makes this study timely.</p>
23	<p>Perrin, M.E., Hagopian, A., Sales, A. and Huang, B., 2007. Nurse migration and its implications for Philippine hospitals. <i>International Nursing Review</i>, 54(3), pp.219-226.</p> <p>According to respondents, the majority of RNs in their hospitals (73%) were aged 40 years and younger and female (85%); government hospital RNs earned higher wages than private hospital RNs; and on average, RN vacancy rates and RN turnover rates were lower in government hospitals than private hospitals. All respondents reported no difficulty recruiting RNs with less than 12 months of work experience. However, recruitment of more experienced RNs was somewhat or very difficult for private hospitals compared with government hospitals. Higher salaries, better benefits and good career opportunities were identified as most effective incentives for both recruitment and retention.</p> <p>RN staffing in government hospitals is more favourable than in private hospitals as measured by employment tenure, vacancy rates, turnover rates and ability to recruit and retain more experienced RNs. On average, respondents reported over half (59%) of total RN turnover was the result of nurse migration overseas.</p>
24	<p>Ball, R. E. 2004. Divergent development, racialised rights: globalised labour markets and the trade of nurses - The case of the Philippines. <i>Womens Studies International Forum</i>, 27, 119-133.</p> <p>The migration of Filipino nurses, a highly feminized profession, in the post Second World War period is clearly characterised by a shift from permanent migration, primarily to the United States, to the globalisation of nursing from the Philippines through 130 R.E. Ball / <i>Women's Studies International Forum</i> 27 (2004) 119–133 short-term contract labour migration throughout the world. The contemporary</p>

	<p>contract migration of nurses is an intensification of the brain drain of its precursor. However, this new brain drain is characterised by a weakening of rights of nurses (as part of a global hierarchy of labour) in their contracted and globalized form. This article reveals that, on the basis of an analysis of the two primary labour markets importing nurses, there is a divergence of demand factors as part of broader global shortages of nurses that third world nurses, such as those from the Philippines, have been filling. Filipino nurses largely fill positions that for structural and cultural reasons nationals in nurse importing nations are unwilling to fill, and this contributes to the marginalisation that many nurses experience, particularly in the Middle East and in the United States, where legal action is beginning to occur. However, there are no opportunities for legal recourse for nurses in vulnerable positions in the Middle East, and hence, there needs to be developed broader employment standards for international migrants and mechanisms for redressing institutionalized discrimination as outcomes of divergent globalization (see Ball & Piper, 2002) for migrant nurses</p>
25	<p>Tiongco-Cruda, B. (2008). An assessment of the health human resource development provisions of the Philippine Nursing Act of 2002 : a thesis submitted in partial fulfillment of the requirements of Master of Public Policy, Massey University at Albany.</p> <p>Republic Act No. 9173, or the Philippine Nursing Act of 2002 enunciates a bevy of incentives under its Health Human Resource Production, Utilization and Development provisions, intended to stem the rising tide of Filipino nurses leaving the country to work overseas. Under Sections 30 to 34 of the Nursing Act, these incentives include the following: (1) upgrading the minimum base salary of nurses from salary grade 10 to 15; (2) establishing a nurse specialty program in government hospitals to upgrade the nurses' skills whereby recipients of the program are required to work in government hospitals for two years; and (3) the provision of other benefits such as scholarship grants, free medical care, etc. These provisions are the government's policy response to mitigate the impact of nurses' migration and retain an adequate supply of skilled Filipino nurses in the country. This research is a qualitative study that seeks to assess the health human resource development provisions and their implementation and aims to help improve them. This study examines the responsiveness of the provisions to the needs of nurses, and identifies the deficiencies of the provisions by looking into the working conditions of nurses in two Philippine government hospitals. It also examines the processes and the factors affecting the implementation of the provisions. This study employed a combination of four data collection methods: (1) focus group interviews of nurses working in two Philippine government hospitals, (2) key informant interviews of officials of government agencies and private organizations tasked to implement the health human resource development provisions, (3) document analyses, and (4) researcher's field notes/journal. The researcher conducted five focus group interviews with a total of 15 nurse participants and 12 key informant interviews. The nurses are working under conditions of low salaries and heavy workload, that is characterized by low nurse-to-patient ratios in the National and LGU Hospitals. The problems of inadequate nurse staffing, large number ill of patients and inadequate supplies in the two government hospitals are identified as causes for the heavy workload of nurses. The nurses want a salary increase that is commensurate to their heavy workload, their professional qualifications and long years of service. For the nurses, a salary increase signifies the government's recognition of their dedication, hard work, and commitment to provide health care to Filipinos despite working under dire circumstances. The nurse specialty training program in areas such as oncology, nephrology, critical care, etc. has not been implemented because of the limited capacities of government hospitals to provide this kind of training and the lack of regulatory framework for the practice of nurse specialists in the Philippines. The other benefits have not been implemented as well. The provisions of the Nursing Act are deficient because they do not address the causes of the heavy workload of nurses. To improve the work conditions of nurses, the Philippine government needs to prioritize to the long neglected health sector by increasing the budgetary allocation in order to create more nurse positions in government hospitals, to provide adequate supplies and equipment for government hospitals and to improve the facilities for nurses.</p>
	<p>Level of Analysis: State Thematic code: Nurse's dilemma at destination countries</p>
26	<p><i>Topical: Unprotected human rights</i></p> <p>Ball, R. and Piper, N., 2002. Globalisation and regulation of citizenship—Filipino migrant workers in Japan. Political Geography, 21(8), pp.1013-1034.</p> <p>This paper examines the state's contradictory roles in globalising its workforce and transforming its regulatory capacities, and the implications these changes have for the human and citizenship rights of an increasing number of migrant workers. We investigate foreign workers' protection and rights at both ends of the migration chain by using the specific examples of the Philippines and Japan. The discussion identifies areas for greater activism and mechanisms for the promotion of the rights of migrants from both 'above' and 'below'. First, the highly aggressive role of the state in globalising labour markets is theoretically discussed. The paper then examines the role of the Philippine state in labour export and the implications of its embrace of neo-liberalism for its capacity to strongly pursue migrant worker welfare. The contradictory positions of the state in promoting globalisation, on the one hand, and discourses of human rights for migrant workers, on the other, are highlighted. In the Japanese case we examine the role of the state in both regulating and restructuring its labour market, and the structural dependence placed on the legal and illegal importation of migrant labour. Despite this dependence, we reveal the contradictory positions held within Japan's state apparatus which result in a deliberate marginalisation of migrant workers. The important role of NGOs in disseminating information to migrant workers about their rights in Japan is highlighted. We explore the relationship between the individual and the state in the context of globalisation through the discussion of citizenship as a negotiated concept. We then examine the changing reality brought about by globalisation processes in terms of responsibility towards the protection of any worker (regardless of passport) but also with regard to activism on behalf of migrant labour. Finally, we emphasise the important future role to be played by NGOs in making the needs and rights of globalised workers more broadly recognised and attended to at both local, national and transnational levels.</p>

27	<p>Pitman, P., et al. (2007). "International migration of nurses: Introduction." <i>Health Services Research</i> 42(3,part2): 1275-1280.</p> <p>The migration of highly skilled workers from less-developed nations is an inevitable part of the process of globalization and has positive and negative aspects. While nurse migration affects different countries in different ways. This special issue includes a set of case studies for countries that represent a spectrum of different situations in relation to nursing shortages and migration. The case studies were commissioned by AcademyHealth (AH) and originally presented at a conference in Bellagio, Italy. These include the United States, the United Kingdom, Canada, China, Philippines, and India. Each country case study describes the nurse educational system, presents data on the current stock of nurses and the inflow and outflow from the profession, and reviews trends in migration. The final section of the papers describes the policy debates taking place within each country. In addition, AH commissioned two reviews for regions in which several country case studies had already been carried out: the Caribbean and sub-Saharan Africa. Despite severe data deficiencies in most source countries, what emerged from this exercise was a continuum of situations that debunk the simple duality of source and destination countries. The global shortages of nurses described in the case studies suggests a need for an internationally coordinated policy response. Understanding stakeholders' interests and concerns is an essential step toward deepening the policy debate and motivating nations to assume shared responsibility for a global problem. We hope that this special issue of HSR will further contribute toward that aim. (PsycINFO Database Record (c) 2016 APA, all rights reserved)</p>
28	<p>Asato, W., 2012. Nurses from abroad and the formation of a dual labor market in Japan. <i>Japanese Journal of Southeast Asian Studies</i>, 49(4), pp.652-669.</p> <p>This article investigates the status of the education and training of Filipino nurse candidates who have been working in Japan under the Japan-Philippine Economic Partnership Agreement (JPEPA). A survey was conducted among Filipino nurse candidates, using a practice examination based on the English version of Japan's National Board Examination for Registered Nurses in 2009. Categorized by area, the mean correct answer rate for nursing-related questions ranged between 61% and 73%; the rate for questions concerning basic knowledge of body functions and diseases ranged between 55% and 57%. There was a large gap in terms of the results of the examination between those who had previously seen the exam questions and those who had never seen them. While 57.1% of those who had previously seen the questions satisfied the acceptance criteria, only 23.7% of those who had never viewed the test satisfied it. Based on these results, the factors which serve as obstacles that Filipino nurse candidates encounter in passing the national examination include not only difficulties in acquiring Japanese proficiency but also differences between Japan and the Philippines in respect to the nursing education curriculum and basic nursing policies.</p>
29	<p>Van Den Broek, D. And Groustis, D., 2017. Global nursing and the lived experience of migration intermediaries. <i>Work, employment and society</i>, 31(5), pp.851-860.</p> <p>Discussion of skilled migration often focuses on skill shortages and global labour market trends, with little attention directed to the individual experiences of the migrants themselves. 'Divina' is a migrant nurse who left her home country of the Philippines to gain work in Australia. In the process of this migration, Divina was drawn into a complex web of co-ethnic relationships with migration intermediaries that shaped much of her experiences with respect to entry and employment in Australia. Her story highlights how migration intermediaries can exacerbate the precarious and vulnerable position of skilled migrants. The dangers are particularly striking for those migrating from non-English-speaking and/or developing nations, where vulnerabilities can be entrenched by 'trusting' co-ethnic relations forged between sending and receiving countries.</p>
30	<p>Topical code: Unfair working conditions</p> <p>O'Brien-Pallas, L. and S. Wang (2006). "Innovations in health care delivery: responses to global nurse migration—a research example." <i>Policy, Politics & Nursing Practice</i> 7(3S): 49S-57S.</p> <p>Using data from a large survey of Canadian nurses, we examined how internationally born nurses (IBNs) in Canada experience their work environment. There are significant differences in demographics and in work status and practice environment. Significantly more IBNs are members of visible minorities than are their Canadian-born counterparts. IBNs work more hours, including more overtime, and are more likely to experience physician, verbal, and emotional abuse. Self-rated health status was worse for IBNs in physical and mental health. Changes are needed to improve the nursing work environment and nurses' perception of the effectiveness of care, and to improve their health status.</p>

31	<p>Lin, L. (2009). A grounded theory of Filipino nurses' role performance in U.S. hospitals, University of Texas at Austin. Ph.D.: 209 p-209 p.</p> <p>In response to the nursing shortages, hospitals in the U.S. have been filling nursing positions by hiring foreign nurse graduates (FNGs). Filipino nurses represent the majority of all FNGs recruited to work in the U.S. Although Filipino nurses are not new to U.S. hospitals, very few studies have detailed how Filipino nurses have adjusted to U.S. nursing practice. The purpose of this study was to explore how Filipino nurses' perceived their role performance in the U.S. Using grounded theory as the methodology and symbolic interactionism as the philosophical underpinning, the principal investigator (PI) developed a substantive theory using a constant comparative method as the analytical approach. The PI used convenience and theoretical sampling to recruit 31 English-speaking female Filipino RNs practicing in Texas. One interview was conducted with each participant and the data were transcribed verbatim. The PI followed Strauss and Corbin's analytic steps to examine all cases, and the rigor of the theory was safeguarded by following the criteria of evaluation. All participants experienced challenges while adjusting to the U.S. healthcare system and American society due to differences in cultural expectations and experiences. The theory explains the processes of Filipino nurses' transition to U.S. nursing practice. The core variable was 'transitioning from Filipino to U.S. nursing practice', which was shaped by nine relational categories. Based on descriptions from these Filipino nurses, it was clear that role transitioning from the Philippines to the U.S. is a complex phenomenon influenced by the meanings and expectations derived from these nurses' prior context in the Philippines. This theory should be beneficial to the many entities involved with or invested in Filipino nurses' migration by providing knowledge about their role transitioning. However, these findings cannot be applied to all Filipino nurses. Future research studies are needed to expand the scope of this theory and to empirically test it. Filipino nurses perceived that unethical actions were constantly taking place, regardless of existing rules and regulations. However, these nurses did little to correct or address the problems or ethical lapses themselves. Advocacy efforts are needed to ensure full understanding of immigration laws and policies to ensure fair work practices for Filipino nurses working in the U.S.</p>
32	<p>Finlay, H. (2015). 'Human Security and Global Nurse Migration: A Mixed Methods Study of Filipina Nurses in Ireland'. Ireland, Europe.</p> <p>It is widely recognised and accepted that there was a serious nursing shortage in Ireland from the years 2000 to 2008 and that care deficits were increasingly being met by foreign nurses. According to Irish Nursing Board statistics active recruitment campaigns were successful in attracting 11,288 non-EU nurses to Ireland between the years 2000 and 2008. During this time migrant nurses accounted for 40 per cent of all newly registered nurses and they became an essential part of the health workforce in Ireland. Many of these nurses came from the Philippines as it was targeted as a major 'nurse reservoir'. The recruitment of Filipina nurses to address gaps in Ireland's health service during the more prosperous Celtic Tiger Period 2000 to 2008 forms part of the broader phenomenon of global or transnational nurse migration, a phenomenon that has global or transnational consequences for human security. The aim of this study has been to explore the 'human security' dimension of migration from the perspective of Filipina nurses recruited to work in Ireland's health service from the years 2000 to 2009. The research findings and analysis of this study suggest overall migration has the capacity to enhance the security of Filipina nurses through increased income and remittance flows. However, just as migration can enhance human security it can also create new risks, vulnerabilities and threats that impact the well-being and security of Filipina nurses, their families and communities. Findings from this study highlight the need for a broad holistic view of human security, one that incorporates a wide range of both objective and subjective threats. In keeping with the human security framework findings from this study reveal 'human security' from the perspective of Filipina nurses relates not only to financial and economic security but also to human agency, feelings of safety and security, the ability to participate fully in the life of the community, human well-being and the building and stability of developments/capabilities gained. A feminist approach to the study of human security is used to highlight the relational nature of 'human security'. In this study it brought to light the important role of Filipina nurses in achieving human security. It also revealed that migration through family separation and the loss of social supports can alter or damage relations of care and this can have implications for the well-being and human capacity of Filipina nurses, their families and communities. However, by placing security and gender at the centre of their migration experience, findings also reveal the strategies employed by Filipina nurses to overcome disadvantage. Filipina nurses through acts of social solidarity with other Filipino women continue to ensure the daily survival and security of their families and communities in Ireland and the Philippines.</p>
	<p>Typical code: Discrimination and racism</p>
33	<p>Montayre, J., Montayre, J. & Holroyd, E. 2018. The global Filipino nurse: An integrative review of Filipino nurses' work experiences.</p> <p>To understand the work-related experiences of Philippine-trained nurses working globally. Background: The Philippines is a major source country of foreign-trained nurses located globally. However, there is paucity of research on professional factors and career related issues affecting foreign-trained nurses' work experiences. Methods: An integrative review through a comprehensive search of literature was undertaken from November 2015 and was repeated in August 2016. Seven articles satisfied the selection criteria. Results: Filipino nurses experienced differences in the practice of nursing in terms of work process, roles and autonomy. Moreover, they encountered challenges such as work-related discrimination and technical difficulties within the organisation. Conclusion: A clear understanding of Filipino nurses' work experiences and the challenges they have encountered suggests identification of important constructs influencing effective translation of nursing practice across cultures and health systems, which then form the basis for support strategies.</p>
34	<p>Choi, S. and Lyons, L., 2012. Gender, Citizenship, and Women's 'Unskilled' Labour: The Experience of Filipino Migrant Nurses in Singapore. Canadian Journal of Women and the Law, 24(1), pp.1-26.</p> <p>The legal frameworks that govern the deployment of migrant women in domestic labor markets often hinder their access to citizenship rights in host countries. The distinction between the "skilled" and "unskilled" worker is part of the labor and immigration regimes which, on the other hand, determine the working conditions of migrant women (including wages, working hours, working days), leave, etc.), and</p>

	nurses (cultural adaptation) and unique identity/role change from physician to nurse (transprofessional adaptation)-that made their transition especially challenging, resulting in short-lived nursing careers at the bedside. Tailored transition programs for physician-turned foreign nurses are needed to address their trans-professional adaptation. In addition, costs and benefits of recruiting and employing physician-turned foreign nurses as direct caregivers need to be reconsidered in light of this study's findings.
40	<p>Topical code: Structural legacies of colonial medicine to migration</p> <p>Anderson, W., 2006. Colonial pathologies: American tropical medicine, race, and hygiene in the Philippines. Duke University Press.</p> <p>Colonial Pathologies is a groundbreaking history of the role of science and medicine in the American colonization of the Philippines from 1898 through the 1930s. Warwick Anderson describes how American colonizers sought to maintain their own health and stamina in a foreign environment while exerting control over and "civilizing" a population of seven million people spread out over seven thousand islands. In the process, he traces a significant transformation in the thinking of colonial doctors and scientists about what was most threatening to the health of white colonists. During the late nineteenth century, they understood the tropical environment as the greatest danger, and they sought to help their fellow colonizers to acclimate. Later, as their attention shifted to the role of microbial pathogens, colonial scientists came to view the Filipino people as a contaminated race, and they launched public health initiatives to reform Filipinos' personal hygiene practices and social conduct.</p> <p>A vivid sense of a colonial culture characterized by an anxious and assertive white masculinity emerges from Anderson's description of American efforts to treat and discipline allegedly errant Filipinos. His narrative encompasses a colonial obsession with native excrement, a leper colony intended to transform those considered most unclean and least socialized, and the hookworm and malaria programs implemented by the Rockefeller Foundation in the 1920s and 1930s. Throughout, Anderson is attentive to the circulation of intertwined ideas about race, science, and medicine. He points to colonial public health in the Philippines as a key influence on the subsequent development of military medicine and industrial hygiene, U.S. urban health services, and racialized development regimes in other parts of the world.</p>
41	<p>Heiser, V.G., 1918. American Sanitation in the Philippines and Its Influence on the Orient. Proceedings of the American Philosophical Society, 57(1), pp.60-68.</p> <p>When the civil regime began, in addition to deplorable sanitary conditions resulting from centuries of neglect, the newly created civil board of health found itself confronted with a severe outbreak of plague in Manila and in a number of the provinces. To add to these difficulties, the board of health had scarcely opened its offices before there began one of the severest epidemics of cholera that has been known in modern times. In a little more than a year it numbered over 300,000 victims, of whom 150,000 or more died.</p> <p>When the civil board of health began its work 40,000 persons were dying annually from smallpox. Beriberi in jails and public institutions was responsible for a large number of deaths. There was no governmental provision for the insane, and more than 3,000 of these unfortunate individuals were without adequate care. The sanitary condition of the prisons throughout the islands left much to be desired. With the exception of the water system which was available for a part of Manila, and possibly a few other minor installations, there was not a reservoir, pipe line, or artesian well for the seven or eight million people of the entire archipelago, and even the water for Manila was known to be grossly polluted. The burial of the dead was not properly regulated. In making new internments, the bones of those who had been previously buried were frequently cast out to bleach in the sun or were thrown upon a bone pile. The city of Manila, with its population of over 200,000, had no sewer system. Disease-carrying human discharges found their way into esteros or canals or were deposited directly on the ground, causing serious soil pollution.</p>
42	<p>Choy CC(1). Nurses across borders: foregrounding international migration in nursing history.</p> <p>Although the international migration of nurses has played a formative role in increasing the racial and ethnic diversity of the health care labor force, nursing historians have paid very little attention to the theme of international migration and the experiences of foreign-trained nurses. A focus on international migration complements two new approaches in nursing history: the agenda to internationalize its frameworks, and the call to move away from "great women, great events" and toward the experiences of "ordinary" nurses. This article undertakes a close reading of the life and work of Filipino American nurse Ines Cayaban to reconceptualize nursing biography in an international framework that is attentive to issues of migration, race, gender, and colonialism. It was a Hannah keynote lecture delivered by the author on June 5, 2008, as part of the CAHN/ACHN (Canadian Association for the History of Nursing/Association Canadienne pour l'Histoire du Nursing) International Nursing History Conference.</p>
	<p>McCalmont, M.E., 1909. Hospitals and Nursing in the Philippines. The American Journal of Nursing, 10(2), pp.89-94.</p> <p>McCalmont (1909) recounts her optimism of starting up the Civil Hospital and Training School for Filipino nurses with Julia Betts, former Red Cross and Army nurse, and by educators Mary Coleman and Charlotte Layton, who were instrumental in the inception of formalized schooling for a small number of scholars at the Philippine Normal School. These nurse trainees were eventually deployed to new hospitals in support of the establishment of a new civil government that replaced a military administration after running a successful pacification campaign. But her own words seem to be prophetic once seeing how she imagined the nursing profession in the Philippines before in light of the current diaspora of Filipino nurses: <i>"It is a country of opportunity for nurses and all women with the right spirit.... We want nurses with new ideas, enthusiasm, and enterprise, not the salary-drawing variety, but the world-helping kind."</i></p>
43	<p>Brush, B. L. and J. Sochalski (2007). "International nurse migration: lessons from the Philippines." Policy, Politics & Nursing Practice 8(1): 37-46.</p>

	Developed countries facing nursing shortages have increasingly turned to aggressive foreign nurse recruitment, primarily from developing nations, to offset their lagging domestic nurse supplies and meet growing health care demands. Few donor nations are prepared to manage the loss of their nurse workforce to migration. The sole country with an explicit nurse export policy and the world's leading donor of nurse labor - the Philippines - is itself facing serious provider maldistribution and countryside health disparities. Examining the historical roots of Philippines nurse migration provides lessons from which other nurse exporting countries may learn. The authors discuss factors that have predated nurse migration and policies that have eased the way. Furthermore, the authors analyze how various stakeholders influence migratory patterns, the implications of migration for nurses and the public in their care, and the challenges that future social policy and political systems face in addressing global health issues engendered by unfettered recruitment of nurses and other
44	Brush, B.L., 2008. Global nurse migration today. <i>Journal of Nursing Scholarship</i> , 40(1), pp.20-25. Rapid changes in nurse migration are significantly challenging nurse workforce management efforts in both donor and recipient nations. As the market demand for nurses around the globe escalates, the changes and consequences associated with nurse migration are increasingly in need of policy solutions that indicate the needs and motivations of all stakeholders.
45	Brush, B. L. (2010). "The potent lever of toil: nursing development and exportation in the postcolonial Philippines." <i>Am J Public Health</i> 100(9): 1572-1581. Although the colonial relationship between the Philippines and the United States precipitated nurse education and migration patterns that exist today, little is known about the factors that sustained them. During the first half of the twentieth century, for example, the Philippines trained its nurse workforce primarily for domestic use. After the country's independence in 1946, however, that practice reversed. Nurse education in the Philippines was driven largely by US market demand in tandem with local messages linking work and nationalism and explicit policies to send nurses abroad. As these ideologies and practices became firmly entrenched, nurse production not only exceeded the country's numerical requirements but focused largely on preparing practitioners for the health care needs of developed nations rather than the public health needs of the indigenous population. This historical trend has important present-day ramifications for the Philippines, whose continued exodus of nurses threatens its public health.
46	McCalmont, M.E., 1909. Hospitals and Nursing in the Philippines. <i>The American Journal of Nursing</i> , 10(2), pp.89-94. The institutionalization of a highly professionalized medical field through local recruitment of nurses made these societal changes possible. McCalmont (1909) recounts her optimism of starting up the Civil Hospital and Training School for Filipino nurses with Julia Betts, former Red Cross and Army nurse, and by educators Mary Coleman and Charlotte Layton, who were instrumental in the inception of formalized schooling for a small number of scholars at the Philippine Normal School. These nurse trainees were eventually deployed to new hospitals in support of the establishment of a new civil government that replaced a military administration after running a successful pacification campaign. But her own words seem to be prophetic once seeing how she imagined the nursing profession in the Philippines before in light of the current diaspora of Filipino nurses: " <i>It is a country of opportunity for nurses and all women with the right spirit.... We want nurses with new ideas, enthusiasm, and enterprise, not the salary-drawing variety, but the world-helping kind.</i> "
47	Espirtu, Y.L., 2005. Gender, migration, and work. <i>Filipina health care professionals to the United States</i> (Vol. 21, No. 1, pp. 55-75). Université de Poitiers. The global historical relations that set the context for Filipino nurse migration has ramifications for the personal and family lives of Filipina health professionals. Accordingly, the second half of the paper explores how marriage and family relations are reconstituted in the United States when it was the wives who pioneered migration. In these cases, the women bring both economic and legal status to the marital table. However, the interview data indicate that women's relatively higher resources do not automatically lead to more egalitarian relations. In fact, they may lead to family dissolution and men's bitterness over not meeting their cultural expectations as primary breadwinners. The experiences of these families also underscore just how much work it takes for immigrant families to try to "make it" in the United States. In their pursuit of the "American dream," the Filipino health care professional need the paid and unpaid labor of their entire family. Thus the American mythology of the rugged individualist pulling himself up by his own bootstrap is just that: a myth. These life accounts also tell us that the pursuit of the American dream, even when "successful," entails physical and psychic costs, the majority of which are borne by the wives and children of these families. Among the costs are a string of broken dreams along the way — of missed family time, deferred careers, and shortened childhood. In the best scenario, responding to the migration-related challenges, both husbands and wives have become more interdependent and equal as they are forced to rely on each other and on the traditional family for economic security and emotional support. On the other hand, to the extent that the traditional division of labor and male privilege persists, wage work adds to the women's overall workload. My research indicates that both of these tendencies exist, though the increased burdens for women are more obvious.
48	Gibson, K. and Graham, J., 1986. Situating migrants in theory: The case of Filipino migrant contract construction workers. <i>Capital & Class</i> , 10(2), pp.130-149. The remittances of overseas contract workers have become a mainstay of many Southeast Asian economies, particularly the Philippines. This article suggests that the growth of contract labour migration in the contemporary global context is of great economic and political significance to both international capital and the nation state, but that migration theory as it currently stands finds difficulty in specifying the particular distinctiveness of this new form of migrant labour.

	Topical code: Boom and bust cycle of immigration Arends-Kruennings, same as above
49	Blythe, J. and A. Baumann (2009). "Internationally educated nurses: profiling workforce diversity." <i>International Nursing Review</i> 36(2): 191-197. Although IENs resident in Ontario could not be quantified, a relatively detailed description of IENs in the workforce was possible. Comparison of nurse cohorts indicated that generalizations about IENs should be made with caution. Changes in regulatory conditions have a significant effect on IEN employment. Difficulties associated with international educational and regulatory differences illustrate the need to create global nursing standards. Further investigation of differences in workforce profiles should provide insights leading to improved utilization of IENs.
50	Jurado, L.-F. M. (2013). Social construction of Filipino nurses in the Philippines and as foreign- educated nurses in the United States, Rutgers The State University of New Jersey - New Brunswick and University of Medicine and Dentistry of New Jersey, Ph.D.: 198 p-198 p. The study examined the social construction of Filipino nurses in the Philippines and as foreign-educated nurses (FENs) in the US. The study objectives were: (a) describe the historical events contributing to mass recruitment of nursing graduates from the Philippines to the US; (b) analyze the political and economic factors underlying the unidirectional flow of foreign-educated nurses from the Philippines to the US; (c) examine the impact of large scale nursing recruitment from the Philippines to the US; and (d) analyze the influence of socially constructed forces on conditions of employment and perceived value of FENs in the US. Social Critical Theory was the conceptual framework for the study. The qualitative study design used historical research and focus groups. The data sources included primary and secondary sources, collected between 1900 to 2013 in the US and the Philippines. Four separate focus groups were conducted with 21 FENs who entered the US under different visas for training or employment between 1962-2006. Findings from historical data and focus groups were triangulated in analyzing linkages and significance of events in the phenomenon of interest. The findings revealed that mass emigration of nurses from the Philippines to the US is facilitated by nursing shortages that brought changes in immigration laws easing entry of nurses to the US. The fusion between the subjective and objective reality constructed nursing and migration to the US as key to improving the economic well-being and social status of FENs and their families. Filipino families, schools, and government take an active role in promoting this social reality. The American benevolent assimilation agenda, US-based public education, and nursing education and practice have perpetuated American superiority and dependence of Filipinos on Americans. Findings provide an understanding of institutionalized structures perpetuating global inequalities in nurse migration and distribution that impact differentially among sending and receiving countries. The study has implications in policy development to promote retention of nurses in their home countries and foreign countries where they immigrate.
51	Joyce RE, Hunt CL. Philippine nurses and the brain drain. <i>Soc Sci Med</i> . 1982;16(12):1223-33. The Philippines has been one of the greatest exporters of professional personnel to the United States, and nurses outnumber any other category. Although some problems have been reported, their experience in the United States has been generally good. A comparison of samples of Filipino nurses who never left the Philippines with those who had either remained for a long time in the United States or who had remained to the U.S. after a short period found little difference in socioeconomic background. Nurses remaining for long periods in the United States did receive lower scores on scales designed to test anchorage and perceived relative opportunities in the Philippines. The supply of Philippine nurses is growing and migration will continue at a high level if U.S. immigration policies permit.
	Topical code: Commodification
52	Yumol, B. B. (2010). A humanist approach to understanding the migration of Filipino nurses to the United States. <i>US, ProQuest Information & Learning</i> . 70: 4769-4769. The global nursing shortage created opportunities for registered nurses from less developed countries to improve their working and living conditions through migration to more progressive and affluent nations. In the Philippines, this phenomenon left the country devoid of the much needed health care professionals. In this research study, I described the lived experiences of eleven indigenous Filipino nurses who migrated to the United States. Through the phenomenology approach, I was able to probe into the meaning of the migration as the participants lived through it, approaching it from a humanist perspective and using Abraham Maslow's theory on the hierarchy of needs as the framework. The study was intended to illustrate how the economic, social, and political characteristics of both countries impacted the Filipino nurses' behavior and thought processes while in pursuit of personal goals. Ultimately, this study could be used as a guide in the development of employment and health care policies that are more responsive to the current state of the nursing profession. (PsycINFO Database Record (c) 2016 APA, all rights reserved)
53	Onuki, H. (2009). "Care, social (re)production and global labour migration: Japan's 'special gift' toward 'innately gifted' Filipino workers." <i>New Political Economy</i> 14(4): 510-516. The Economic Partnership Agreement (EPA) concluded by the Japanese and the Philippine governments on 9 September 2006, was described in the Japanese media as a 'new step toward opening Japan's labour market' (Asahi Shimbun 2006b). Similar to Japan's previous free trade treaties with Singapore, Mexico and Malaysia, the Japan-Philippines Economic Partnership Agreement (JPEPA) mainly concerns tariff reduction to facilitate bilateral exchanges of goods and services (Ministry of Foreign Affairs (MOFA) 2006). ² Yet, its distinctive feature is its facilitation of the movement of 'natural persons' –

	<p>more specifically, the JPEPA allows for the Philippines to send up to 400 nurses and 600 'care' workers to Japan over a period of two years (Asahi Shimbun 2006a). Indeed, the government of Japan has signed a similar EPA with Indonesia, which includes the same clause, permitting Indonesian nurses and care workers to work in Japan (MOFA 2007b). Further, it is currently discussing the possibility for the reception of Thai care workers through the recently ratified EPA with Thailand (MOFA 2007a). Given Japan's strict immigration regulation over the entry of the so-called 'unskilled' workers,⁴ such deregulations of the inflows of 'foreign' labour to Japan is remarkable, especially in terms of care workers whose professional status has not yet been verified in Japanese labour market (Son 2007; Takagi 2006). The proposed inflow of immigrant care workers to the Japanese labour market has accelerated heated debates over how to cope with the acute demand for elder care in the context of a historically unprecedented expansion of the aging population. These concerns are further expounded by a range of socioeconomic as well as demographic changes that have led to a dramatic shrinking of the Japanese labour force.</p>
54	<p>Inamarga, R. N. 2009. Aspirations, Identities and Strategies: Migration and Career Trajectories of Filipino Nurses. Philippines, Australia: Capitol University Press.</p> <p>This essay explores the dynamic interplay of personal aspirations, flickering identities and tactical strategies in the formation of career trajectories of nurses. It provides the tedious process of migrating to the US on an employment-based petition and the attendant "globalistic" career-mapping strategies that determine the success of Filipino nurses to penetrate the much-coveted US market. Specifically, it tries to ascertain whether the Philippine-born, Philippine-educated and Philippine-trained nurse has become the world-class Filipino global worker, and whether US migration via the nursing route has evolved into a metaphor for the "high-end" Filipino diaspora. The increasing "professionalization" of work-related migration to the US by Filipino nurses is posited to attest to the instrumental use of stringent measures by US immigration agencies to highlight the dissonance between the professional qualification of Filipino nurses and the American standards, thereby giving rise to the ambivalent status of nursing as a profession of choice in the Philippines. Nurses are generally viewed as out-bound professionals, with several countries serving as transitory placements and training grounds in their migration itinerary, all the while focusing on the US as their final destination.</p>
55	<p>Masselink LE(O), Daniel Lee SY. 2013. Government officials' representation of nurses and migration in the Philippines.</p> <p>During the past few decades, the nursing workforce has been in crisis in the United States and around the world. Many health care organizations in developed countries recruit nurses from other countries to maintain acceptable staffing levels. The Philippines is the centre of a large, mostly private nursing education sector and an important supplier of nurses worldwide, despite its weak domestic health system and uneven distribution of health workers. This situation suggests a dilemma faced by developing countries that train health professionals for overseas markets: how do government officials balance competing interests in overseas health professionals' remittances and the need for well-qualified health professional workforces in domestic health systems? This study uses case studies of two recent controversies in nursing education and migration to examine how Philippine government officials represent nurses when nurse migration is the subject of debate. The study finds that Philippine government officials cast nurses as global rather than domestic providers of health care, implicating them in development more as sources of remittance income than for their potential contributions to the country's health care system. This orientation is motivated not simply by the desire for remittance revenues, but also as a way to cope with overproduction and lack of domestic opportunities for nurses in the Philippines.</p>
56	<p>Masselink, L. E. and S. Y. Lee (2010). "Nurses, Inc.: expansion and commercialization of nursing education in the Philippines." <i>Soc Sci Med</i> 71(1): 166-172.</p> <p>Exporting nurses has been a long-standing economic strategy for the Philippine government, despite the fact that the Philippines' domestic health system is weak and existing supplies of health workers are poorly distributed. This study explores the role of nursing schools as "migrant institutions" in expanding and commercializing nursing education and perpetuating the link between nursing education and migration. Data were collected primarily via in-depth interviews of key informants (nursing school administrators and policymakers) in the Philippines. Results suggest that nursing schools have expanded migration opportunities by making nursing educational available to more students and more diverse student populations. Also, some nursing schools have acted to control the licensure and recruitment processes by establishing commercial relationships with licensure exam review centers and recruitment agencies. These activities perpetuate the culture of migration in the country's nursing profession and indirectly contribute to declining quality of nursing education, misuse of scarce resources, corruption in the nursing sector, and exacerbation of existing health workforce imbalances.</p>
57	<p>Masselink, L. E. (2009). Health professions education as a national industry: framing of controversies in nursing education and migration in the Philippines. University of North Carolina at Chapel Hill. Ph.D.: 222 p-222 p.</p> <p>During the past few decades, the nursing workforce has been in crisis in the United States and around the world. An aging work force and high rates of burnout and turnover has caused a global shortage of nurses of unprecedented proportions. Many health care organizations in developed countries have resorted to recruiting nurses from other countries in order to maintain acceptable staffing levels. The Philippines is the largest source country for foreign-trained nurses in the United States and an important supplier of nurses worldwide. Exporting nurses has been a long-standing economic strategy for the Philippine government, despite the fact that the Philippines' domestic health system is weak and existing supplies of health workers are poorly distributed. The Philippine nursing profession is now aimed more at global markets than supplying domestic needs. Despite longstanding awareness of the 'internationalization' of the Philippine nursing profession, the logics and thought processes that underlie the phenomenon are poorly understood. This study aims to uncover the discursive construction of nurse migration by various stakeholders ('migrant institutions') through case studies of two recent controversies in nursing education and migration in the Philippines: a leakage of answers on the nursing licensure exam and the inclusion of nurses in a trade agreement with Japan. It employs frame analysis of the newspaper coverage of the two controversies and key informant interviews of government, health sector, education and professional organization representatives to examine how the priorities of economic development, migrants' rights and</p>

	<p>professional development of nurses are debated in the Philippines. The study finds broad support for interpretations of the controversies that position Filipino nurses as export products on the global market, which are linked to their professional development and often minimize concerns about their rights as migrants. It demonstrates the domestic importance of protecting the Philippine 'brand' of nurses, links nursing professional development to Philippine economy and nation building, and challenges 'brain drain' understandings of health professional migration. It also makes a case for approaches which account for the role of migrant institutions in shaping public understanding and policy decision-making related to migrants and migration.</p>
58	<p>Ortiga, Y.Y., 2014. Professional problems: The burden of producing the "global" Filipino nurse. <i>Social science & medicine</i>, 115, pp.64-71.</p> <p>This paper investigates the challenges faced by nursing schools within migrant-sending nations, where teachers and school administrators face the task of producing nurse labor, not only for domestic health needs but employers beyond national borders. I situate my research in the Philippines, one of the leading sources of migrant nurse labor in the world. Based on 58 interviews with nursing school instructors and administrators, conducted from 2010 to 2013, I argue that Philippine nursing schools are embedded within a global nursing care chain, where nations lower down the chain must supply nurse labor to wealthier countries higher up the chain. This paper shows how this process forces Filipino nurse educators to negotiate an overloaded curriculum, the influx of aspiring migrants into nursing programs, and erratic labor demand cycles overseas. These issues create problems in defining the professional knowledge needed by Filipino nurses; instilling professional values and standards; and maintaining proper job security. As such, these findings demonstrate how countries like the Philippines bear the burden of ensuring nurses' employability, where educational institutions constantly adjust curriculum and instruction for the benefit of employers within wealthier societies. My interviews reveal how such adjustments undermine the professional values and standards that define the nursing profession within the country. Such inequality is an outcome of nurse migration that current research has not fully explored.</p>
59	<p>Cortez, M. J., et al. (2016). "Eliciting Challenges on Social Connectedness among Filipino Nurse Returnees: A Cross-Sectional Mixed-Method Research." <i>Nurs Res Pract</i> 2016; 91:87536.</p> <p>This cross-sectional study utilized a nested concurrent design to determine the association of Filipino nurse returnees' length of stay since they returned and their social connectedness as well as the essence of communication from their perspective. The respondents, who are Filipino nurses (n = 107) who worked abroad and returned to the Philippines for good, were employed from June to July of 2015 via referrals from colleges and institutions in Metro Manila and Bulacan areas in the Philippines. The quantitative results revealed, in one hand, significant but weak correlation between the respondent's length of stay and social connectedness ($r = 0.224$, $p = 0.021$, $\alpha = 0.05$). On the other hand, three themes were generated from the qualitative analysis, namely, (1) Taking-Hold, (2) Taking-Hold, and (3) Letting-Go. The Social Connection System (SCS) provides a visual depiction of the social connectedness of a person. This research is geared towards the understanding of the interesting phenomenon of migration and social coherence of Filipino professionals.</p>
60	<p>Goode, A., 2009s, <i>Global Economic Changes and the Commodification of Human Capital: Implications of Filipino Nurse Migration</i>. East Asia: An International Quarterly, 26, 113-131</p> <p>East Asia's economic prowess strongly impacted the research agenda of scholars studying the region. Whereas analysts had once focused on military governments, relations of dependency, clientelism, and low modes of peasant movements, they now investigate industrialisation. In East Asia, the Philippines is the largest contributor of migrant labourers to the global workforce. Following recent discussions by Robert Putnam on the social aspect of investment, perhaps human capital might then be considered part of the industrialisation process? Channeling human resources towards expediting industrialisation can be a catalyst for development. This article seeks to combine a variety of theoretical literatures with insights gained from conducting fieldwork and available empirical data, presenting its main findings in two major parts. The first focuses on the relationship between human capital, migration and economic growth, and suggests that social capital, particularly human resources, can help economic growth in developing countries if channelled appropriately. The second is a case study of the Philippines as the second largest exporter of human labour in the world, with human capital as its largest export commodity. A key feature of the research identifies the significance of commodifying human capital. The author argues that maximizing human resources, as a potential and un-channelled catalyst for improved economic growth is a good investment in social capital. By transforming human resources into a trade commodity, this economic transaction between labour-sending (parent) and labour receiving (host) countries becomes a rational process that takes on emotional qualities, and must be considered where the trade of human labour is concerned.</p>
61	<p>Acacio, K. (2007). "Rethinking Supply Side Factors: The Role of Formal Organizations and Institutions in Philippine Nurse Migration." <i>Conference Papers -- American Sociological Association</i>: 1.</p> <p>This paper is about the often ignored role of formal organizations and institutions in the initiation and perpetuation of international migration. In particular, this paper will explore the ways in which important sending actors from relevant institutions, such as the state, nursing schools and recruitment agencies, influence the migration process of Filipino nurses going to the United States. While previous research has discovered the ways in which different economic or social "push factors" motivates migration, it has not focused on the role that formal organizations and institutionalized networks play in perpetuating migration systems as well. This paper will address this gap in three main ways. First, this paper documents the ways in which the Philippine government has a vested interest in exporting labor to other countries, including nurses to the United States. Second, it demonstrates the direct role that nursing schools have in producing the "Filipino World-Class" nurse and the consequent indirect role these schools also play in continued migration. Third, this paper explores the [pro]-activities of private recruitment agencies in the Philippines in marketing and placing nurses abroad.</p>
62	<p>Rodriguez, R.M. And Schwenken, H., 2013. Becoming a migrant at home: subjectivation processes in migrant-sending countries prior to departure. <i>Population, Space and Place</i>, 19(4), pp.375-388</p>

	<p>Labour emigration is not merely the business of states and governmental policies, but comes with a range of wider societal practices. This includes the production of – and contestation over – the ‘ideal migrant subject’. This paper examines the complex interplay of actors and practices involved in migrant subject-making processes paying close attention to the pre-employment temporary labour migration process step by step from screening, recruitment, pre-departure training up to employment-matching. It asks how prospective migrants are transformed into ‘ideal’ migrant subjects. This contribution primarily draws from data from the Philippines and India. It is argued that migrants actually become migrants before they ever leave their home country: Labour-sending states set the regulatory frameworks and co-produce ‘ideal migrant subjects’ from which other social actors draw or contest. In contrast to most studies on the governance of labour migration, the authors highlight the role of subject formation as an important element of modern migration management. To the scholarship that actually takes into account subjectivation processes, this paper adds material both on the labour-sending state as well as on non-state actors. The paper, moreover, draws out subject-making from previous studies where it is less central and more implicit.</p>
	<p>Topical code: Bilateral Labor Agreements</p>
63	<p>Rodriguez, R.M., 2010. Migrants for export: How the Philippine state brokers labor to the world. U of Minnesota Press.</p> <p>Migrant workers from the Philippines are ubiquitous to global capitalism, with nearly 10 percent of the population employed in almost two hundred countries. In a visit to the United States in 2003, Philippine president Gloria Macapagal Arroyo even referred to herself as not only the head of state but also “the CEO of a global Philippine enterprise of eight million Filipinos who live and work abroad.” The book investigates how and why the Philippine government transformed itself into what it calls a labor brokerage state, which actively prepares, mobilizes, and regulates its citizens for migrant work abroad. Filipino men and women fill a range of jobs around the globe, including domestic work, construction, and engineering, and they have even worked in the Middle East to support U.S. military operations. At the same time, the state redefines nationalism to normalize its citizens to migration while fostering their ties to the Philippines. Those who leave the country to work and send their wages to their families at home are treated as new national heroes. Drawing on ethnographic research of the Philippine government’s migration bureaucracy, interviews, and archival work, the book presents a new analysis of neoliberal globalization and its consequences for nation-state formation.</p>
64	<p>Gonzalez, J.L., 1998. Philippine labour migration: Critical dimensions of public policy. Institute of Southeast Asian Studies.</p> <p>There are currently more than six million Filipino workers in over 120 countries in jobs ranging from maids to managers. The Philippine Government has encouraged the manpower exodus to absorb the country’s surplus labour and to bring foreign exchange earnings into the Philippine economy. However, non-governmental organizations have argued that social dysfunctions associated with working abroad have not been adequately addressed. Using an analytical framework that blends multiple stakeholders’ perspectives, the author assesses the historical, demographic, economic, social, and political dimensions of Philippine labour migration policy from the early 1900s to the late 1990s.</p>
65	<p>Peji, B. 2010. Enhancing DOLE Capacity in Regional Trade Negotiations: Strategies and Information Needs. ILS Discussion Paper Series – 2010, Institute of Labor Studies, Manila</p> <p>After three years of implementation, the gains expected from the Philippine-Japan Economic Partnership Agreement (PJEPA) have yet to be realized, particularly in the area of movement of natural persons (MNP). This paper intends to examine the various employment issues with regard to the implementation of the Philippine and Japan commitments under the PJEPA, with particular focus on MNP. It will examine how the commitments of either country have been observed and guaranteed by the implementation of the PJEPA. Further, this paper intends to develop an MNP review framework in aid of Philippine negotiators and policy makers.</p>
	<p>Level of analysis: International Thematic code: International</p>
	<p>Topical code: Ethical implications of bilateral labor agreements</p>
66	<p>Anonuevo, C. A. (2011). “Transnational care: Expectations and realities of Filipino nurses under the Japan-Philippine economic partnership agreement (JPEPA) program.” <i>Philippine Journal of Nursing</i> 81(2): 7-11.</p> <p>This paper is an exploration of the perceptions of Filipino nurses on their current status and work conditions after passing the Japanese Licensure Examination for nurses, their plans in light of their conditions, and their views on the implementation of Japan-Philippine Economic Partnership Agreement or JPEPA. Individual interviews were conducted in July 2012 with six Filipino nurses who passed the Japanese licensure examination. The study participants have been working as staff nurses in five tertiary health care facilities in Japan. The interview was held in the hospital premises. Permission to conduct the interview was given by the participants themselves, with consent of their employers. The narratives of the six Filipino nurses revealed that preparation for the Japanese licensure examination was a difficult challenge that required personal effort and institutional support. Passing the national examination has brought encouraging changes in their nursing functions, salaries and benefits, interpersonal relationships, and professional image. However, language barrier and communication problems persist. Most of them were uncertain whether to stay long or not in Japan. Conclusion: In pursuit of international cooperation particularly on the</p>

	movement of natural persons. JPEPA can have a bright prospect if both countries address difficulties arising from language and cultural barriers. Further, regulatory measures need to be strengthened to ensure the quality and protection of nurses and care workers.
67	<p>Yagi, N., et al. (2014). "Policy review: Japan-Philippines Economic Partnership Agreement (JPEPA)—analysis of a failed nurse migration policy." <i>Int J Nurs Stud</i> 51(2): 243-250.</p> <p>In 2008, the bilateral Japan-Philippines Economic Partnership Agreement took effect. Contained within this regional free trade agreement are unique provisions allowing exchange of Filipino nurses and healthcare workers to work abroad in Japan. Japan's increasing need for healthcare workers due to its aging demographic and the Philippines need for economic development could have led to shared benefits under the Japan-Philippines Economic Partnership Agreement. However, 4 years following program implementation, results have been disappointing, e.g., only 7% of candidates passing the programs requirements since 2009. These disappointing results represent a policy failure within the current Japan-Philippines Economic Partnership Agreement framework, and point to the need for reform. Hence, amending the current Japan-Philippines Economic Partnership Agreement structure by potentially adopting a USA based approach to licensure examinations and implementing necessary institutional and governance reform measures may be necessary to ensure beneficial healthcare worker migration for both countries.</p>
68	<p>Yujico, E. (2015). "Comment on 'Policy Review: Japan-Philippines Economic Partnership Agreement (JPEA)—Analysis of a failed nurse migration policy'." <i>International Journal Of Nursing Studies</i> 52(6): 1138-1139.</p> <p>Comments on an article by N. Yagi et al. (see record [rid2014-00016-010]/rid). Yagi et al. are to be commended for drawing attention to the process of facilitating Filipino nurses' employment as registered nurses in Japan. Despite the logic of this exchange, implementation has been challenging. However, the current author wishes to address points which invite further study concerning the comparability of American and Japanese nursing, the overall level of migration welcomed by Japan, and the implementation of the Japan-Philippines Economic Partnership Agreement (JPEPA) program. Likely, JPEPA is not a ready-made solution to Japan's nursing shortage but an ongoing process of evaluating the feasibility of trade in healthcare services. It will take time to establish trust in foreign nurses if familiarity increases and passing rates improve, but these are unavoidable growing pains given the contentiousness of migration in Japanese society. (PsyINFO Database Record (c) 2017 APA, all rights reserved)</p>
69	<p>Makulec, Agnieszka., 2014. "Philippines' bilateral labour arrangements on health-care professional migration : in search of meaning." <i>ILO Working Papers</i> 994869923402676, International Labour Organization.</p> <p>The report aimed to study how the three roles of BLAs -- facilitation of recruitment, protection of migrants' rights and mitigating of negative consequences of migration for sending countries -- are secured and implemented in the BLAs on health-care professionals' migration between one of the major health professionals' exporting countries, the Philippines.</p>
70	<p>Ford, Michele; Kawashima, Kumiko. <i>Journal of Industrial Relations</i>. Jun2013, Vol. 55 Issue 3, p430-444. 15p.</p> <p>Around the world, advanced industrial societies are facing a demographic time bomb that has enormous implications for the workforce in general, but for workforce planning and industrial relations in the health sector and related industries in particular. Japan, which has traditionally resisted structured forms of labour migration, has responded by establishing labour migration schemes for nurses and other care workers from selected South and Southeast Asian countries. This article examines the responses of different industrial relations actors to the first of these schemes. It begins by describing the opening up of hospitals and residential care facilities to temporary labour migrants from the Philippines and Indonesia, before turning to a discussion of the roles played by trade unions and employers and an evaluation of the outcomes of the programme to date. The article demonstrates the potential pitfalls of trade-driven labour migration schemes and their implications for the sector and the migrant workers concerned.</p>
71	<p>Kawaguchi, Yoshichika; HIRANO, O. Yuko; OGAWA, Reiko; OHNO, Shun. <i>京都大学東南アジア研究所. Exploring Learning Problems of Filipino Nurse Candidates Working in Japan: Based on the Results of a Practice National Board Examination of Japan Given in English</i></p> <p>This article investigates the status of the education and training of Filipino nurse candidates who have been working in Japan under the Japan-Philippine Economic Partnership Agreement (JPEPA). A survey was conducted among Filipino nurse candidates, using a practice examination based on the English version of Japan's National Board Examination for Registered Nurses in 2009. Categorized by area, the mean correct answer rate for nursing-related questions ranged between 61% and 73%; the rate for questions concerning basic knowledge of body functions and diseases ranged between 55% and 57%. There was a large gap in terms of the results of the examination between those who had previously seen the exam questions and those who had never seen them. While 57.1% of those who had previously seen the questions satisfied the acceptance criteria, only 23.7% of those who had never viewed the test satisfied it. Based on these results, the factors which serve as obstacles that Filipino nurse candidates encounter in passing the national examination include not only difficulties in acquiring Japanese proficiency but also differences between Japan and the Philippines in respect to the nursing education curriculum and basic nursing policies.</p>
	Asato, W., 2012. Nurses from abroad and the formation of a dual labor market in Japan. <i>Japanese Journal of Southeast Asian Studies</i> , 49(4), pp.652-669. <i>same as the previous.</i>

Appendix B

WHO Global Code of Practice on the International Recruitment of Health Personnel

WHO Global Code of Practice on the International Recruitment of Health Personnel

Preamble

The Member States of the World Health Organization,

Recalling resolution WHA57.19 in which the World Health Assembly requested the Director-General to develop a voluntary code of practice on the international recruitment of health personnel in consultation with all relevant partners;

Responding to the calls of the Kampala Declaration adopted at the First Global Forum on Human Resources for Health (Kampala, 2–7 March 2008) and the G8 communiqués of 2008 and 2009 encouraging WHO to accelerate the development and adoption of a code of practice;

Conscious of the global shortage of health personnel and recognizing that an adequate and accessible health workforce is fundamental to an integrated and effective health system and for the provision of health services;

Deeply concerned that the severe shortage of health personnel, including highly educated and trained health personnel, in many Member States, constitutes a major threat to the performance of health systems and undermines the ability of these countries to achieve the Millennium Development Goals and other internationally agreed development goals;

Stressing that the WHO Global Code of Practice on the International Recruitment of Health Personnel be a core component of bilateral, national, regional and global responses to the challenges of health personnel migration and health systems strengthening,

THEREFORE

The Member States hereby agree on the following articles which are recommended as a basis for action.

Article 1 – Objectives

The objectives of this Code are:

- (1) to establish and promote voluntary principles and practices for the ethical international recruitment of health personnel, taking into account the rights, obligations and expectations of source countries, destination countries and migrant health personnel;
- (2) to serve as a reference for Member States in establishing or improving the legal and institutional framework required for the international recruitment of health personnel;
- (3) to provide guidance that may be used where appropriate in the formulation and implementation of bilateral agreements and other international legal instruments;
- (4) to facilitate and promote international discussion and advance cooperation on matters related to the ethical international recruitment of health personnel as part of strengthening health systems, with a particular focus on the situation of developing countries.

Article 2 – Nature and scope

2.1 The Code is voluntary. Member States and other stakeholders are strongly encouraged to use the Code.

2.2 The Code is global in scope and is intended as a guide for Member States, working together with stakeholders such as health personnel, recruiters, employers, health-professional organizations, relevant subregional, regional and global organizations, whether public or private sector, including nongovernmental, and all persons concerned with the international recruitment of health personnel.

2.3 The Code provides ethical principles applicable to the international recruitment of health personnel in a manner that strengthens the health systems of developing countries, countries with economies in transition and small island states.

Article 3 – Guiding principles

3.1 The health of all people is fundamental to the attainment of peace and security and is dependent upon the fullest cooperation of individuals and states. Governments have a responsibility for the health of their people, which can be fulfilled only by the provision of adequate health and social measures. Member States should take the Code into account when developing their national health policies and cooperating with each other, as appropriate.

3.2 Addressing present and expected shortages in the health workforce is crucial to protecting global health. International migration of health personnel can make a sound contribution to the development and strengthening of health systems, if recruitment is properly managed. However, the setting of voluntary international principles and the coordination of national policies on international health personnel recruitment are desirable in order to advance frameworks to equitably strengthen health systems worldwide, to mitigate the negative effects of health personnel migration on the health systems of developing countries and to safeguard the rights of health personnel.

3.3 The specific needs and special circumstances of countries, especially those developing countries and countries with economies in transition that are particularly vulnerable to health workforce shortages and/or have limited capacity to implement the recommendations of this Code, should be considered. Developed countries should, to the extent possible, provide technical and financial assistance to developing countries and countries with economies in transition aimed at strengthening health systems, including health personnel development.

3.4 Member States should take into account the right to the highest attainable standard of health of the populations of source countries, individual rights of health personnel to leave any country in accordance with applicable laws, in order to mitigate the negative effects and maximize the positive effects of migration on the health systems of the source countries. However, nothing in this Code should be interpreted as limiting the freedom of health personnel, in accordance with applicable laws, to migrate to countries that wish to admit and employ them.

3.5 International recruitment of health personnel should be conducted in accordance with the principles of transparency, fairness and promotion of sustainability of health systems in developing countries. Member States, in conformity with national legislation and applicable international legal instruments to which they are a party, should promote and respect fair labour practices for all health personnel. All aspects of the employment and treatment of migrant health personnel should be without unlawful distinction of any kind.

3.6 Member States should strive, to the extent possible, to create a sustainable health workforce and work towards establishing effective health workforce planning, education and training, and retention strategies that will reduce their need to recruit migrant health personnel. Policies and measures to strengthen the health workforce should be appropriate for the specific conditions of each country and should be integrated within national development programmes.

3.7 Effective gathering of national and international data, research and sharing of information on international recruitment of health personnel are needed to achieve the objectives of this Code.

3.8 Member States should facilitate circular migration of health personnel, so that skills and knowledge can be achieved to the benefit of both source and destination countries.

Article 4 – Responsibilities, rights and recruitment practices

4.1 Health personnel, health professional organizations, professional councils and recruiters should seek to cooperate fully with regulators, national and local authorities in the interests of patients, health systems, and of society in general.

4.2 Recruiters and employers should, to the extent possible, be aware of and consider the outstanding legal responsibility of health personnel to the health system of their own country such as a fair and reasonable contract of service and not seek to recruit them. Health personnel should be open and transparent about any contractual obligations they may have.

4.3 Member States and other stakeholders should recognize that ethical international recruitment practices provide health personnel with the opportunity to assess the benefits and risks associated with employment positions and to make timely and informed decisions.

4.4 Member States should, to the extent possible under applicable laws, ensure that recruiters and employers observe fair and just recruitment and contractual practices in the employment of migrant health personnel and that migrant health personnel are not subject to illegal or fraudulent conduct. Migrant health personnel should be hired, promoted and remunerated based on objective criteria, such as levels of qualification, years of experience and degrees of professional responsibility on the basis of equality of treatment with the domestically trained health workforce. Recruiters and employers should provide migrant health personnel with relevant and accurate information about all health personnel positions that they are offered.

4.5 Member States should ensure that, subject to applicable laws, including relevant international legal instruments to which they are a party, migrant health personnel enjoy the same legal rights and responsibilities as the domestically trained health workforce in all terms of employment and conditions of work.

4.6 Member States and other stakeholders should take measures to ensure that migrant health personnel enjoy opportunities and incentives to strengthen their professional education, qualifications and career progression, on the basis of equal treatment with the domestically trained health workforce subject to applicable laws. All migrant health personnel should be offered appropriate induction and orientation programmes that enable them to operate safely and effectively within the health system of the destination country.

4.7 Recruiters and employers should understand that the Code applies equally to those recruited to work on a temporary or permanent basis.

Article 5 – Health workforce development and health systems sustainability

5.1 In accordance with the guiding principle as stated in Article 3 of this Code, the health systems of both source and destination countries should derive benefits from the international migration of health personnel. Destination countries are encouraged to collaborate with source countries to sustain and promote health human resource development and training as appropriate. Member States should discourage active recruitment of health personnel from developing countries facing critical shortages of health workers.

5.2 Member States should use this Code as a guide when entering into bilateral, and/or regional and/or multilateral arrangements, to promote international cooperation and coordination on international recruitment of health personnel. Such arrangements should take into account the needs of developing countries and countries with economies in transition through the adoption of appropriate measures. Such measures may include the provision of effective and appropriate technical assistance, support for health personnel retention, social and professional recognition of health personnel, support for training in source countries that is appropriate for the disease profile of such countries, twinning of health facilities, support for capacity building in the development of appropriate regulatory frameworks, access to specialized training, technology and skills transfers, and the support of return migration, whether temporary or permanent.

5.3 Member States should recognize the value both to their health systems and to health personnel themselves of professional exchanges between countries and of opportunities to work and train abroad. Member States in both source and destination countries should encourage and support health personnel to utilize work experience gained abroad for the benefit of their home country.

5.4 As the health workforce is central to sustainable health systems, Member States should take effective measures to educate, retain and sustain a health workforce that is appropriate for the specific conditions of each country, including areas of greatest need, and is built upon an evidence-based health workforce plan. All Member States should strive to meet their health personnel needs with their own human resources for health, as far as possible.

5.5 Member States should consider strengthening educational institutions to scale up the training of health personnel and developing innovative curricula to address current health needs. Member States should undertake steps to ensure that appropriate training takes place in the public and private sectors.

5.6 Member States should consider adopting and implementing effective measures aimed at strengthening health systems, continuous monitoring of the health labour market, and coordination among all stakeholders in order to develop and retain a sustainable health workforce responsive to their population's health needs. Member States should adopt a multisectoral approach to addressing these issues in national health and development policies.

5.7 Member States should consider adopting measures to address the geographical maldistribution of health workers and to support their retention in underserved areas, such as through the application of education measures, financial incentives, regulatory measures, social and professional support.

Article 6 – Data gathering and research

6.1 Member States should recognize that the formulation of effective policies and plans on the health workforce requires a sound evidence base.

6.2 Taking into account characteristics of national health systems, Member States are encouraged to establish or strengthen and maintain, as appropriate, health personnel information systems, including health personnel migration, and its impact on health systems. Member States are encouraged to collect, analyse and translate data into effective health workforce policies and planning.

6.3 Member States are encouraged to establish or strengthen research programmes in the field of health personnel migration and coordinate such research programmes through partnerships at the national, subnational, regional and international levels.

6.4 WHO, in collaboration with relevant international organizations and Member States, is encouraged to ensure, as much as possible, that comparable and reliable data are generated and collected pursuant to paragraphs 6.2 and 6.3 for ongoing monitoring, analysis and policy formulation.

Article 7 – Information exchange

7.1 Member States are encouraged to, as appropriate and subject to national law, promote the establishment or strengthening of information exchange on international health personnel migration and health systems, nationally and internationally, through public agencies, academic and research institutions, health professional organizations, and subregional, regional and international organizations, whether governmental or nongovernmental.

7.2 In order to promote and facilitate the exchange of information that is relevant to this Code, each Member State should, to the extent possible:

- (a) progressively establish and maintain an updated database of laws and regulations related to health personnel recruitment and migration and, as appropriate, information about their implementation;
- (b) progressively establish and maintain updated data from health personnel information systems in accordance with Article 6.2; and
- (c) provide data collected pursuant to subparagraphs (a) and (b) above to the WHO Secretariat every three years, beginning with an initial data report within two years after the adoption of the Code by the Health Assembly.

7.3 For purposes of international communication, each Member State should, as appropriate, designate a national authority responsible for the exchange of information regarding health personnel migration and the implementation of the Code. Member States so designating such an authority, should inform WHO. The designated national authority should be authorized to communicate directly or, as provided by national law or regulations, with designated national authorities of other Member States and with the WHO Secretariat and other regional and international organizations concerned, and to submit reports and other information to the WHO Secretariat pursuant to subparagraph 7.2(c) and Article 9.1.

7.4 A register of designated national authorities pursuant to paragraph 7.3 above shall be established, maintained and published by WHO.

Article 8 – Implementation of the Code

8.1 Member States are encouraged to publicize and implement the Code in collaboration with all stakeholders as stipulated in Article 2.2, in accordance with national and subnational responsibilities.

8.2 Member States are encouraged to incorporate the Code into applicable laws and policies.

8.3 Member States are encouraged to consult, as appropriate, with all stakeholders as stipulated in Article 2.2 in decision-making processes and involve them in other activities related to the international recruitment of health personnel.

8.4 All stakeholders referred to in Article 2.2 should strive to work individually and collectively to achieve the objectives of this Code. All stakeholders should observe this Code, irrespective of the capacity of others to observe the Code. Recruiters and employers should cooperate fully in the observance of the Code and promote the guiding principles expressed by the Code, irrespective of a Member State's ability to implement the Code.

8.5 Member States should, to the extent possible, and according to legal responsibilities, working with relevant stakeholders, maintain a record, updated at regular intervals, of all recruiters authorized by competent authorities to operate within their jurisdiction.

8.6 Member States should, to the extent possible, encourage and promote good practices among recruitment agencies by only using those agencies that comply with the guiding principles of the Code.

8.7 Member States are encouraged to observe and assess the magnitude of active international recruitment of health personnel from countries facing critical shortage of health personnel, and assess the scope and impact of circular migration.

Article 9 – Monitoring and institutional arrangements

9.1 Member States should periodically report the measures taken, results achieved, difficulties encountered and lessons learnt into a single report in conjunction with the provisions of Article 7.2(c).

9.2 The Director-General shall keep under review the implementation of this Code, on the basis of periodic reports received from designated national authorities pursuant to Articles 7.3 and 9.1 and other competent sources, and periodically report to the World Health Assembly on the effectiveness of the Code in achieving its stated objectives and suggestions for its improvement. This report would be submitted in conjunction with Article 7.2(c).

9.3 The Director-General shall:

- (a) support the information exchange system and the network of designated national authorities specified in Article 7;
- (b) develop guidelines and make recommendations on practices and procedures and such joint programmes and measures as specified by the Code; and

(c) maintain liaison with the United Nations, the International Labour Organization, the International Organization for Migration, and other competent regional and international organizations as well as concerned nongovernmental organizations to support implementation of the Code.

9.4 WHO Secretariat may consider reports from stakeholders as stipulated in Article 2.2 on activities related to the implementation of the Code.

9.5 The World Health Assembly should periodically review the relevance and effectiveness of the Code. The Code should be considered a dynamic text that should be brought up to date as required.

Article 10 – Partnerships, technical collaboration and financial support

10.1 Member States and other stakeholders should collaborate directly or through competent international bodies to strengthen their capacity to implement the objectives of the Code.

10.2 International organizations, international donor agencies, financial and development institutions, and other relevant organizations are encouraged to provide their technical and financial support to assist the implementation of this Code and support health system strengthening in developing countries and countries with economies in transition that are experiencing critical health workforce shortages and/or have limited capacity to implement the objectives of this Code. Such organizations and other entities should be encouraged to cooperate with countries facing critical shortages of health workers and undertake to ensure that funds provided for disease-specific interventions are used to strengthen health systems capacity, including health personnel development.

10.3 Member States either on their own or via their engagement with national and regional organizations, donor organizations and other relevant bodies should be encouraged to provide technical assistance and financial support to developing countries or countries with economies in transition, aiming at strengthening health systems capacity, including health personnel development in those countries.

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