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Coming to America: The Business of Trafficked Workers

By Valerie Francisco (Portland University) and Robyn Rodriguez (UC Davis)

In November 2012, an explosion on an oil platform, not far from New Orleans, Louisiana claimed the lives of three Filipino migrant workers, Avelino Tajonera, Ellroy Corporal and Jerome Malagapo. These highly skilled migrant workers were recruited from the Philippines by Grand Isle Shipyards (GIS), Inc. and brought to the United States to work as welders, pipe fitters and scaffolders on the Black Elk Energy-owned platform. The Gulf Coast's labor-intensive oil industry, following the massive British Petroleum oil spill in 2010, was in major need of workers. Filipino migrant workers were recruited to fill that demand.

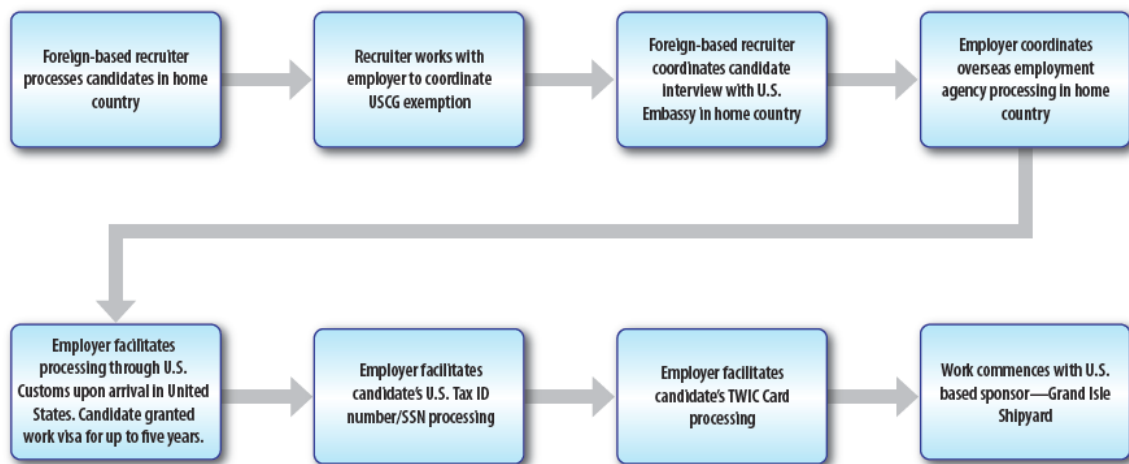
Hundreds of GIS Filipino migrant workers arrived in the Gulf Coast and found themselves working under severely exploitative conditions. However, they could not refuse the work because they had a contractual obligation to fulfill (though they would later learn that the terms of their contracts were duplicitous) as well as massive debts incurred in the Philippines an array of migration-related expenses. These Filipino migrant workers were tethered to their contracts, debts and dreams only to face the prospect of death.

Moreover, the GIS-recruited Filipino migrants were subject to a complex, transnational set of employment relations. While it was GIS (a U.S. based staffing agency) that ensured migrants' employment and visas for entry into the U.S., D&R Resources, a labor recruitment company based in Louisiana, facilitated their actual placement with Black Elk Energy.¹ D&R Resources, it was later revealed after the workers filed suit against GIS and Black Elk, was a shell company of GIS. The acquisition and recruitment of Filipino migrant workers by GIS was a transnational effort that began with DNR Offshore and Crewing Services, a recruitment agency in the Philippines.² Both DNR in the Philippines and D&R in the U.S. were owned by Danilo

Dayao and Randolph Malagapo. They are both connected to GIS. In short, Filipino migrant workers had three different organizations (GIS, DNR Offshore and Crewing Services, and D&R Resources) facilitating and managing their employment in the U.S. The chart below is a visual found on the GIS website explaining the “Personnel Processing Flow” they undertake transnationally to recruit migrant workers and then place them in jobs in the U.S.

Personnel Processing Flow

International applicants wishing to work in the U.S. must complete a rigorous visa application process set forth by the United States government that involves vetting by no less than six government agencies, including the U.S. Coast Guard, Department of Homeland Security and Internal Revenue Service. This process is guided by a third party, foreign-based recruitment company, and is in addition to any processes required by the applicant's home country.



Following the 2012 explosion, 17 of their co-workers, also from the Philippines, initiated a class action lawsuit against GIS and Black Elk Energy citing violations of the Fair Labor Standards Act of the United States. The lawsuit identified a range of violations. Black Elk, according to the suit, subjected the migrants to abusive and oppressive working conditions. They were paid an emaciated wage of \$5.50 per hour although GIS had promised the workers \$16.25 for regular time and \$24.37 for overtime when they were recruited in the Philippines. Moreover, the migrants’ workdays ranged from 10 to 14 hours, sometimes for four months straight. Black Elk failed to pay them overtime or to provide them with breaks. In addition, the migrants were

forced to pay GIS \$1,000 to \$3,500 per month to live in a 10-foot by 10-foot room with four to six other workers. They were also subjected to curfews and surveillance in their living quarters on the GIS compound. The workers were not allowed off-board, restricted in their movement, cut off from communication to the outside world and were even prohibited from practicing their religious faith. This lawsuit, of course, does not include DNR Offshore and Crewing Services, the Philippine-based recruitment, which is arguably just as culpable in the workers' sufferings as GIS and Black Elk.

What the GIS case reveals is the increasingly complex immigration process and employment relations that characterize more recent forms of migration from the Philippines to the United States. Indeed, the case sheds light on the changing dynamics of the U.S.'s guest worker program, the complexities of which has not garnered sufficient attention in the immigration scholarship.

Temporary employment visas such as "H" visas have actually out-numbered employment based immigrant visas since the Immigration Act of 1965, and subsequent amendments, were introduced. More people are entering the U.S. as temporary workers than as immigrant (long-term permanent resident) workers. "H1" visas are set aside for professional workers while "H2" visas are for unskilled laborers. The most common of the H1 visas is the H1B, which is valid for a three-year period and renewable up to a six-year maximum. In order to qualify for the H1B visa, a migrant must have the equivalent of a 4 year college/university degree and relevant employment experience. Additionally, an H1B applicant must have a job offer from an employer who also commits to file the H1B visa on the migrants' behalf. Upon termination of employment, the visa is not longer valid; i.e. one cannot transfer one's H1B visa to a new employer.

Though less common than H1 visas, H2 visas for lesser skilled workers are also offered.

The H2A is for agricultural workers and the H2B is to nonagricultural workers. H2B workers may stay in the U.S. for the duration of the approved petition and only up to a maximum of three years. Moreover, H2B workers are only authorized from only a specific number of countries³.

Since 9/11, however, the ability for eligible temporary workers to convert their short-term visas to green cards has become increasingly more difficult. This puts them in a precarious situation; it is in this sense that they are in effect, “probationary” Americans (Park and Park 2005). Temporary migrants may find themselves in legal limbo as they await the approval of their permanent residency (and indeed, may find themselves technically “out of status” or “illegal” for an indeterminate amount of time if their temporary visas expire before they receive green cards); meanwhile, the pressures to maintain one’s legality under conditions of stepped up enforcement may make temporary migrants especially vulnerable to abuse by their employers who hold the power to keep them legal (even if only temporarily) and may even hold the key to long-term residency.

Legal status, whether it is temporary or long-term, becomes a modality of labor control. The “carrot” that keeps migrants compliant workers in their places of employment is the promise of permanent residence in the U.S., for those who are eligible, or simply legal status for those who are not. Meanwhile the “stick” is the prospect of losing the highly prized opportunity of work in the U.S. legally, albeit for a temporary period of time.

Temporary migrant workers are increasingly being recruited and employed through a transnational network of labor recruitment and staffing firms. With labor market flexibilization occurring at a fast-pace globally, demands for “flexible” (often defined as short-term, contractualized workers) have soared and staffing firms have risen up to meet that demand. A crucial point made by Peck Theodore and Ward in their 2005 article, is that:

Staffing firms are not simply supplying services; in their role as private labour market intermediaries they are a major new institutional presence in liberalizing economies. They facilitate new kinds of intermediated employment practices and forms of labour contingency that otherwise would be logistically and socially infeasible (Peck and Theodore 1998); they shield employers from benefit liabilities and break apart the implicit contract of continuing employment (Vosko 2000); and in the process they help to shape new labour market practices and norms (Peck, Theodore, and Ward, 2005: 4).

The GIS case illustrates the ways that staffing firms play a role in shaping and mediating employment relations.

Filipino migrants are an especially good case study for examining the United States' guest worker program. Many Filipinos enter the United States through temporary employment "H" visas. Indeed, the Philippines was amongst the top 5 countries supplying workers to the U.S. through the H1-B visa program as of the 2010 census. Indeed, a case study of Filipino migrant workers' demonstrates that the United States' guest worker program ultimately relies on multiple sets of actors transnationally, a key actor being labor-sending governments like the Philippines. As a "labor brokerage" state, the Philippines is crucial in the producing flexible labor for the U.S. (and a global) labor market. Labor brokerage is highly profitable for the Philippine state. On one hand, the Philippines profits from its migrant citizens through over \$24 billion dollars of annual remittance that fuels the national economy. On the other hand, it profits from fees secured from different migration industry actors as well as from mandatory pre-migration fees charged to migrants (and often collected by recruitment agencies) for seminars, forms, applications, etc. (Rodriguez 2010; Guevarra 2009).

In this paper we focus on the "illegal" aspects that characterize "legal" migration through

the United States' guest worker program. We find that "legal" migration, as facilitated by the growing transnational migration industry and enabled by the Philippine labor brokerage state, becomes a thinly veneered form of labor trafficking. For example, in the GIS case, the Philippine based recruiter DNR Offshore and Crewing Services drew up two different contracts with different wage rates when they recruited Filipino migrant workers in the Philippines⁴. One contract guaranteed a specific wage and the other guaranteed a substantially lower wage rate. The prospective migrants were coerced into signing both contracts if they hoped to leave the Philippines for highly coveted jobs in the United States. U.S. employment was contingent on workers signing both contracts. The contract with a higher wage was used to comply with the labor standards defined by the U.S government and was submitted to the US Embassy in Manila for H-visa approval. The contract with the lower wage rate was filed in company records and was used as the legally binding document to which Filipino migrant workers were to conform upon their commencement of work in Louisiana. This situation is what migrant activists in the Philippines call, "contract substitution." It is one mechanism, amongst many others, by which Filipino workers can be egregiously illegally exploited even as migrants entered the U.S. legally.

We also find that many Filipino migrants, similar to the GIS workers, feel as if they have no option but to accept highly abusive working conditions because of the debts they have incurred in migrating. Indeed, there are numerous sets of agents that facilitate migration including the labor sending state (the Philippines), the labor receiving state (the U.S.), and labor recruiters (based in both the U.S. and the Philippines). Each set of agents generally requires workers to pay fees associated with documentary processing. Labor recruiters may "front" the money required for documentary processing and travel, or migrant workers may turn to lending companies for loans. Migrants are hence constrained by obligations (in some cases outright debt

bondage), which not only shapes employment relations but impacts migrants' legal status. Not only do migrants endure difficult working conditions but also they may be forced to overstay the terms of their visas and become "illegal" in order to earn the wages necessary to pay off their debts.

In this paper, we aim to look closely the ways in which even legal migrants are dispossessed of labor rights and their immigration statuses through contract-substitution and debt bondage. We highlight migrant workers' stories garnered through qualitative research and campaigns advocating for migrant workers' rights. We especially analyze the role of the Philippine labor brokerage state in this transnational labor system. We thereby contribute to new approaches in sociology and critical geography which focus on sending states as well as collaborations between entrepreneurs, services, businesses and sending states in shaping the social process of global migration (Hernandez-Leon 2005; Gammeltoft-Hansen and Srensen 2013).

Methods

For this paper, we will be drawing from multiple sources of data. In addition to examining cases involving Filipino H-visa holders as reported through the U.S. Department of Labor and ethnic newspapers, we will be reviewing cases of labor trafficking and migrant worker campaigns led by the National Alliance for Filipino Concerns (NAFCON). NAFCON is comprised of Filipino organizations across the United States including faith-based groups, youth and student organizations, community-based organizations, service providers, women's organizations, cultural groups, workers associations, health practitioners, academics and human rights advocates. NAFCON's mission is to advocate for the rights and welfare of Filipino migrants in the US, they do so by responding to issues arising in migrant communities in the

areas where member organizations are located like San Francisco/Bay Area, New York City, Los Angeles, and Chicago. As scholars and activists, both authors have been active in supporting recent NAFCON campaigns on labor trafficking.

We also draw from participatory research project called the Caregiver Research Project or the CARE Project. Since 2011 both authors worked collaboratively with community organizers and migrant workers in the San Francisco/Bay Area to conduct participatory research with Filipino migrants working as caregivers and domestic workers. The research process was migrant-centered. The authors trained the Filipino migrants in research methods but the migrants played a central role in the interview design, data collection and analysis. From this project, the authors draw from the 50 interviews collected during December 2011 to November 2012.

The Illegal Aspects of Legal Migration

NAFCON has reported numerous cases of exploitation and labor trafficking through H visas. One notable 2007 case was that of ten Filipino nurses based in New York. The nurses were brought to the U.S. on H1-B visas and they experienced horrific living and working conditions. It is important to note that employers often provide H1-B visa holders with housing since they are temporary workers. According to one of the nurses,

We were brought to the staff house where we were stay for two months for free and save money we need when we move to an apartment...I shared the room with other Filipino nurses. We took turns sleeping on the bed and on the floor. It wasn't comfortable, but I didn't complain.

Moreover, the patient-nurse ratio was extremely high. One nurse described how he was assigned 100 patients during a shift. Indeed, the U.S. Department of Labor reported a similar case of exploitation where forty physical and occupational therapists hired through the H1B visa program were owed back wages.⁵

Another visa category through which migrants from the Philippines are able to secure employment in the U.S. is the H2-B. The H2-B brings in seasonal, non-agricultural workers to the U.S. on a temporary basis. Though the H1-B is also a temporary employment visa, it offers migrants the possibility of legal permanent residence if their employers petition on their behalf. The H2-B program does not. As with the H1-B visa, H2-B visa holders have also been subject to extreme cases of abuse as reported by immigrant and workers' rights advocates. Legal status, these cases reveal, does not protect one from what are practically "illegal" forms of exploitative employment.

In our research we found that a participant in the CARE Project named Eric was recruited in the Philippines and came to the U.S. under an H2-B visa to work as a welder in Alabama. Eric recalled his migration to the U.S.:

Interviewer: What was the reasons why you left the Philippines?

Eric: It's, uh, a little bit difficult because, uh, the, I have the obligation to my family since I'm the eldest. You know, as what I told you, the difficulties, the hardship, coming to the U.S. can help me to earn good money. Before, I was only a factory worker at Unilever, Unilever Company. So I came to the U.S. to get better pay.

Interviewer: Um, when, when did you come to the United States?

Eric: Um, last, 2007. August 2007. I came first in the Alabama, the state, state of Alabama because our, our working place is in Alabama. That's where our agency delivered us.

Interviewer: What did you do in Alabama?

Eric: Welding, but because our visa expires in 15 days and the company asked us to pay \$4,000 to renew our visa and we have not started our job, I could not pay. Even if they promised us in the Philippines for a renewal, they did not help us if we did not pay.

In this instance, Eric's story demonstrates the ability of migrants to avail of legal avenues to enter the U.S. with the intentions of working under a contract and viable visa. However, the

costly fees of renewing his H2-B visa without the opportunity to work for a substantial amount of time and save money pushed him out of his prior documented status. The cohort of migrant welders Eric came to the U.S. with were under the impression that the company that employed them would assist in renewing their visas. When that assistance was not made available and further, the opportunity to work to pay fees was eclipsed, Eric's options to stay in the country narrowed. After arriving in the U.S. with the promise of earning better wages for his family, Eric did not want to shortchange his opportunity to pay debts, support his family and earn dollars.

Returning to the Philippines was to be his last option. Eric continues:

Interviewer: So how did you stay in the U.S.?

Eric: So in 2009, I came here in San Francisco, to do caregiving uh, but before I went to, Miami to look for work and I work in a hotel as a housekeeping. You know, every day we work, every day, with little pay like that.

Eric finds himself as an undocumented worker in different service industries in the U.S. because although he was brought here through legal means, no one but Eric wanted to be responsible for his legal status in the U.S. Although his undocumented status was a result of his recruitment agency misinforming him in the Philippines and the failure of his U.S.-based employer to provide ample time to renew his visa, this complex manipulation of legal avenues is invisible. Rather, Eric, as an undocumented worker is the overly visible representation of the migration industry.

NAFCON found that fifteen workers (the "Florida 15") were recruited to work as housekeepers for several Florida-based hotels under the H2-B program. The workers paid exorbitant fees to get employment in the U.S. and were paid much lower wages than their counterparts. They were often paid late. They would later find themselves undocumented

because the recruitment agency failed to renew the H2B visa, which is only a one-year visa (though it is renewable for up to three years).⁶

The U.S. Department of Labor has found cases where migrants from the Philippines have been trafficked into the United States through a variety of “legal” schemes, that is, labor recruiters and/or employers have managed to secure Filipino migrants with visas to gain entry into the United States with the intention of putting them to work. For instance, in 2012, three individuals were arrested on criminal charges for forcing migrants from the Philippines into conditions of virtual servitude. According to a Department of Labor report, one of the defendants recruited migrants from the Philippines with promises of employment in the U.S. elder care facilities she owned. She then worked in partnership with another individual, an owner of a Taekwondo studio, to sponsor these migrants as “students” (i.e. on “J” visas) in order to secure visas for them. Once the migrants entered the U.S. they were subject to long hours of work but the wages they earned were used to pay off so-called “travel expenses.” In another case, a high-ranking Taiwanese official was actually deported from the United States for trafficking two domestic workers. Though she signed a contract with one of the workers and promised to pay her the US \$1,240 per month, 40 hours a week, 8 hours a day and promised her entry into the U.S. on B-1 (business) visas, she only paid the worker \$450 a month and required her to work 16-18 hours per day as well as on weekends and holidays. In addition to ordering her deportation, a U.S. Federal Court ordered that she pay restitution to the workers.⁷

What is important about these cases is to highlight the role of the migration industry in manipulating the United States’ visa regimes to facilitate the migration of workers il/legally. We want to underscore, moreover, the role that the Philippine state plays as a “labor broker” in this

process. Without the active role of the state in the export of workers, labor recruiters and overseas employers would not be able to function in the way that they do.

Jonny, another participant in the CARE Project who is currently undocumented and working as a caregiver also shared with us the legal avenue in which he arrived to the US. Jonny was granted a C-1B visa, a seaman transit visa, to the U.S. to be able to work on a ship whose company was based in the U.S. In his 9-month contract, Jonny worked on a cargo ship that took him all over the world, including the U.S. and would bring him back to the Philippines at the end of his 9-month stint. He told us his about this duties on the ship and the hardships of working under contract:

Jonny: 20 ako nung nagumpisa akong magtrabaho sa barco, tapos di na ako bumalik sa barco nung 25 ako nung nandito yung barco sa U.S. Limang taon sa barco. I was 20 when I started working as a seaman on ships, I was 25 when I chose not to return to the ship when we were stopped in the U.S.

Interviewer: What were your jobs on the ship?

Jonny: Mga kritikal jobs, sa umpisa entry level job sa kitchen, mess boy, tagalinis ng kusina. Pag nakakuha ng maraming experience, punta ka sa deck. Doon yung talagang manual job, mahirap delikado pa kasi yung chemicals na dinadala naming, toxic. Puro chemical, hazardous na chemicals. After nun, navigation ng barco, how to drive the ship. Tapos navigate ka around the world, literally, mundo, ikot ka na. Lahat gagawiin mo. Pero overworked kami, beyond the contract, kasi pagdating sa barco hindi naman exacto sa contract mo ang gagawiin mo. Kagaya yung sa amin, konti lang yung crew para sa napakalaking ship, like ang laki ng ship yung crew naming 30 lang. So you have to exert effort din para compensate yung batch buddy mo.

Critical jobs, in the beginning entry level job in the kitchen as a mess boy, cleaning up the kitchen. When you gain experience, you are sent to the deck. That's the hard manual work, its hard because its hard work and dangerous because the chemicals we were handling were toxic. All the chemicals, hazardous chemicals. After that, ship navigation, how to drive the ship. Then you navigate around the world, literally the you circle the world. You do it all. But we were overworked, beyond the contract, because when we got to the ship, the work you do is not what is outlined in the contract. For example, in my case, we had such few crew members for such a huge ship like the ship was humungous and we had a 30-man crew. So you have to exert effort to compensate for the lack of crew members.

In this snippet, Jonny tells us about a life of hardship on a ship for 9-months where the duties under contract were not what he encountered in his time on the ship. Jonny had experience doing all of the jobs he lists and attended to all of those tasks when needed since all of it were “critical jobs” for the ship to run. Work conditions were strenuous and Jonny continues to explain how this experience pushed him towards illegality:

Pagdating dito sa U.S. desidido akong pumirme dito at ayaw ko nang bumalik sa barco dahil sa hirap ng trabaho sa barco. Kahit na marami kaming ginagawa sa barco, di ka babayaran sa extra work mo. Hirap sa barco kumparado sa hirap dito sa U.S., iba. Barco is back breaking work. So ginamit ko ang aking legal na bisa para makapasok, at di na ako bumalik sa barco.

When I got to the US, I decided to and not return to the ship because of the difficulty of working on the ship. Even if we did so much on the ship, you weren't paid for the extra work. The difficulty in working on a ship compared to the difficulty in working in the US, different. Working on a ship is back breaking work. So I used the legal visa to enter, and I didn't return to the ship.

Although Jonny is not covered under the H-visa that we are chiefly discussing in this section, we want to highlight the legal avenues in which he came to the U.S. and the work conditions he endured as a seaman pushed him towards illegality.

Debt Bondage: An Illegalizing Force

If legal status does not protect migrants from highly exploitative living and working conditions, the transnational apparatus that structures Philippine migration often subjects migrants to incredibly onerous debts that ultimately render them undocumented. That is, in order to secure overseas employment, Filipino migrants depend on different migration industry actors (i.e. labor recruitment agencies which can be located in either the Philippines, the United States or both) as well as governments (i.e. the Philippines' and the United States' migration agencies). Both state and non-state actors charge migrants fees for their services. Often migrants do not have the funds to pay for these fees. They are then forced to borrow money from either private

lenders or from labor recruitment agencies if these agencies have the capacity to front the funds that migrants' need. Of course, not only do migrants need funds to pay for service fees, they will need the funds to travel. Most Filipino migrants' wages are garnished when they work abroad. This means that they have less to send back to their families. Those who do not pay risk having their families in the Philippines threatened by lenders' representatives. Moreover, the short-term contracts that migrants have often expire before they are able to repay their debts. Migrants, to avoid intimidation by lenders, willfully overstay their employment visas and become undocumented in order to continue to pay their debts.

In the NAFCON cases discussed above, the workers all found themselves saddled by oppressive debts. They are not alone. Reports from Department of Labor as well as the Filipino media have covered several high profile cases of debt peonage. For example, in Louisiana, Filipino teachers recruited in the state were forced to pay \$16,000 for placement fees before leaving the Philippines. In addition, they had to sign over 10% of their monthly salaries for two years to pay for agency-provided housing. Those unable to pay the initial \$16,000 were referred to loan companies that charged them high interest rates. Anyone who complained about these debt repayment obligations were threatened with deportation (deCastro 2011).

In Baltimore, the Prince George's County Public School (PGCPS) recruited 1,044 teachers' from the Philippines on H1B visas. PCGPS illegally required the teachers to pay for the processing of their H1B visas. These fees are supposed to borne by the employer. Instead, the PCPGS garnished teachers' wages to ensure that the visa processing fees were paid. The teachers ended up launching a campaign to challenge the school district on this and other issues. Though they were successful in getting the Department of Labor to intervene, the workers were ultimately rendered undocumented. The Department of Labor forced the school district pay the

teachers' back-wages for the district's illegal deduction of migrants' salaries and it barred the district from being able to hire through the H1B program. But in terminating the teachers' employment with the district, the teachers' were left without visas and therefore without legal status. The onerousness of the debt that the teachers had to bear is expressed by one of the teachers, Ms. Gumanoy who says:

"How in the world can I go back to the Philippines in 9 days? I have a car loan, doctors' appointments, financial obligations, etc. My family is with me here, we cannot just pack our bags and go home. This is our life at stake, we need to plan for it! Talk about injustice! They could not even give a 45-day notice like our apartment does" (Cite Asian Journal online version 10 August 2011; Article: "Victimized Pinoy teachers demand justice at the White House"; Author: Cynthia de Castro)

To better illustrate the impacts of debt peonage on migrants' everyday lives, we turn to interviews conducted as part of our participant action research with Migrant Northern California. Harry was brought to the United States on an H2B visa as a first class welder for employment in Alabama. Harry was first recruited from his hometown of Cebu with 68 other workers. With a growing family of three children he was forced to look for work overseas. Harry responded to a recruitment ad for welders in the U.S. However, "*Sinabihan ng agency na kami magbabayad ng mga four hundred thousand pesos. Our agency told us that we would have to pay four hundred thousand pesos. So it's about I would say, ten thousand U.S. dollars.*" Harry explains:

Binigyan ako nga H2-B visa, yung H2-B bisa ko is 15 days bago mag expired. Sinabi naming na walang kaming pang bayad sa three hundred fifty to four hundred thousand pesos yun ang range para sa pagbago ng bisa. So inofferan nalang nila ng offer na puntahan nyo itong lending company kasi may bisa na kayo, pakita nyo yung bisa sila na bahala sa pera nyo. So from lending yung pera hindi naman nahawakan, binigay na papuntang agency.

They gave me an H2-B visa, the H2-B visa is only 15 days before it expires. We said we didn't have the money to pay the range of 350,000 to 400,000 pesos for visa renewal. So the agency offered that we go to a lending company because we already had a visa but the lending would take care of the money. But the money from the lending company, we didn't get that money, it went straight to the agency.

Though anxious about the amount of money being charged by the recruitment agency, Harry also felt that it was a reasonable bargain for the opportunity to go to a coveted migrant destination, the United States. Harry's case illustrates how multiple state and non-state institutions are at work to produce a population of precarious workers before they even leave home. Yet, Harry ultimately saw his opportunity to earn in dollars as a promising opportunity to lift family members out of poverty.

Once he arrived in the U.S., Harry was ready to work. Though he and his cohort of welders expected to work hard, they ultimately found themselves in highly exploitative working conditions, "*So nagtrabaho kami ng 7 days a week, 12 to 14 hours. Yun yung trabaho namin. So we worked seven days a week, 12 to 14 hours. That's our workday.*" Despite working long hours, all of the wages Harry earned were used to repay his debt, which was accruing interest, to the Philippine-based lending company from which he borrowed funds to pay the recruitment agency, "*Walang mapupunta samin yung pera kasi, uh... pinagbabayad lang siya sa lending company. None of our wages would end up with us because, uh...we are paying all of our wages to the lending company.*" Contrary to his expectation prior to leaving the Philippines for employment in the U.S., Harry's ability to support his family was minimized by the need to pay his accruing debt within a specific timeline. Harry and the 68 other migrant workers in his cohort were soon struck with the worst news about their employment:

After two months bigla nalang inninannounce nung company na wala na silang maibigay na project so yon. May utang pa kami pero wala pa kaming trabaho pag dating dito sa U.S. After two months, they surprisingly announce that the company did

not have any projects to provide to the workers. We still had debts but we had no work when here in the U.S.

The cohort of migrant workers that Harry came to the United States with soon realized that their agency's promise of employment and legalization was a sham.

Nakita yung status na talagang human trafficking. Parang ghost company lang ginawa. Binigyan muna kami ng... parang ginawa sabing totoo na may trabaho binigyan namin muna ng dalawang bwan na trabaho tapos wala na, bigla nalang nawala. So nag watakwatak kami tapos ah...

We saw immediately that our status was human trafficking. It was a ghost company that was made to bring migrant workers, the company created a job contract that would give us work for two months and then it was gone, it was all of the sudden gone. After that all of the workers dispersed after we couldn't find work with company.

In the case of Harry and 68 of his colleagues begins in the culture of migration in the Philippines. Prospective migrants' not only desire employment overseas, but they are particularly motivated by fantasies of stable work in America. After migrants are able to secure employment in the U.S., debt peonage keeps them working under any set of conditions. The interests of the migration industry become very clear, Harry says:

Parang nakita ko ano lang, yung habol nila sa pera yung pera talaga. Oo, utang from the lending kasi malaki yon pero ginamit nila yung U.S., ginamit nila yung pangalan ng America.

From what I saw, what they [the agency] were after is money. Yes, the debts from the lending [company] were huge but they used the US, they used the name of "America".

Debt is a heavy burden for migrant workers to bear. In Harry's case, when the job that he was recruited for disappeared without the possibility of renewal or placement, he was not able to continue to pay his debts. The lending company, however, used strong-arm tactics transnationally to ensure that Harry would find some way, even if it meant becoming undocumented, to pay the debts back:

Bumigat noon yung problema kasi, tapos may trip na sa pamilya ko. Yung asawa ko

tinatawagan na ng lending companies, mga lawyers sinasabi makukulong asawa ko pag hindi ako magbayad. Hindi na nakakatulog, yung pormisyo na yung labas. At apektado na yung pamilya ko.

The problem became heavier because there were threats to my family. The lending company was calling, the lawyers said that my wife could be jailed if I didn't pay my debt. I wasn't able to sleep because of the situation because it affected my family.

Threats made on his family because of the debt he incurred for leaving them forced Harry to ultimately stay in the U.S., with or without documentation, to pay back what he owed to the lending company to ensure his family's safety. The transnational regulation of migrant workers through debt peonage is a key reason why many immigrants choose to fall out of status. Harry's migration started with the desire that working abroad would help stabilize his family. The migration industry created an avenue through which he could satisfy those desires. Harry believed that he would be able to pay back the debt incurred to be able to migrate. However, his story illustrates how the precariousness of his employment and his debt bondage worked towards his illegalization in America. The corporation he worked for relied on these conditions to retain him as a highly exploited, low-wage worker.

In another example, a migrant worker named Angelito described his inescapable tie to his debt in his migration to the U.S.:

Do you believe may utang na ang alam ko lang noong pumunta ako rito is more than a million pesos? And it never stop. Kaya hanggang ngayon, hanggang ngayon, kaya I don't want to go back.

Do you believe that my debts when I came to the U.S. is more than one million pesos? And it never stopped growing. That's why until now, until now, I don't want to go back.

Angelito accrued debts up to a million pesos in his years as a migrant worker. He was first recruited to a job in Saudi Arabia working in a factory and then to Papua New Guinea as an electrical worker and was able to gain a multiple-entry visitor's visa to the U.S. As a worker in Saudi Arabia and Papua New Guinea, Angelito lamented that his work in those places

bankrupted him instead of stabilizing his financial status:

I didn't know that the agency that I applied for is not legalized in Saudi Arabia and they're asking money to deduct in our salary in which it is not in our contract. Ayoko ko yung ganun. Na idideduct maliit na yung sahod na tinanggap ko tapos babawasan mo pa.

I didn't know that the agency that I applied for is not legal in Saudi Arabia and they're asking to deduct money from our salary which is not in our contract. I didn't like that. That they would deduct from our already measly wage.

When Angelito's short-term contracts did not prove to be a viable way of supporting his family's livelihood nor an avenue to receive steady income to pay back his debts, Angelito turned to his visitor's visa to gain legal entry to the U.S. This migration was mostly influenced by the need to pay his debts coupled with the promise of the American dollar. In what Anju Paul (2011) calls, stepwise migration, Angelito follows a trend where Philippine migrants ultimately "collect" temporary contracts and visas and engage in stepwise migration wherein they migrate to multiple destinations for short-periods of time until they are able to get to their final destination goal, most often, countries in the West. Moreover, we add that this stepwise migration is motivated by debt accrued from past contracts. And upon his entry to the U.S., Angelito felt as if that he had no other options but to remain in the country undocumented because of the insurmountable debts he had in the Philippines.

Conclusion

Debates about immigration, particularly undocumented immigration, have been raging across the United States for over a decade. Indeed, state and municipal governments have attempted to introduce policies to discourage the settlement of immigrants in different communities in the absence of major, comprehensive immigration reform at the federal level.

Currently, the Obama Administration's proposal for immigration reform calls for more

border security, enhanced mechanisms by which employers can verify the immigration status of prospective employees as well as a pathway to citizenship for the undocumented, especially long-time residents of the United States. Some public commentators suggest, moreover, that the United States expand the current "guest worker" program to allow low-wage, unskilled migrants to enter the United States legally, albeit without the possibility of permanent residence or citizenship. Indeed, President George W. Bush initially proposed expanding the guest worker program in earlier debates on immigration reform in the months prior to the 9/11. 9/11, of course, dashed those initiatives, but they would resurface in subsequent years and are a topic of discussion in the current debate.

Though the "guest worker" program (i.e. the provision of temporary employment visas has been a key aspect of (im)migration to the United States since the passage of the 1965 Immigration Act, the experiences of workers who come to the United States through the "H" visa and the mechanisms by which they get here have been rarely explored in the scholarship.

Filipinos are amongst the top 5 groups who come to the U.S. on H visas and are therefore an important population for study. Our research of Filipino migrants yields several important findings about the United States' guest worker program. First, we find that what explains Filipinos' entry into the U.S. on H visas is largely the role of the Philippines state as a labor brokerage state. By actively facilitating the export of its citizens, the Philippine state is responsible for the flourishing of the migration industry in the Philippines. Industry actors have been vital in ensuring the transfer of labor from the Philippines to the U.S. The transnational labor migration process can be the source of "dispossession" for migrant workers who are both illegally exploited for their labor and even illegalized as a consequence of debt bondage.

Even if comprehensive immigration reform were to be introduced in the United States,

including the expansion of the guest worker program, undocumented migration, especially from the Philippines may not be fully addressed. The Philippine state is amongst the top labor sending countries in the world. It is a veritable “labor brokering” state. The state, along with private recruitment agencies, plays a critical role in mobilizing, facilitating and regulating migration from the Philippines. Hence, Filipino migrants find themselves living and working in nearly two hundred countries around the world as both short-term contractual and immigrant workers. We argue that the Philippines’ labor brokerage state plays a critical role in producing undocumented migration.

The systematic and aggressive institutionalization of labor export in the Philippines continues to export migrants in large-scale globally. Many migrants leaving the Philippines secure their departure through temporary contracts in precarious forms of employment. These short contracts are profitable as stepwise migration and circular migration ensures remittances that have been incorporated into the fabric of the Philippine national economy. Aneesh defines contractual labor are crafted through transnational labor regulation (Aneesh 2000). This research states that small-scale companies in recruitment, placement and consultation profit from garnishing one to two-thirds of migrant workers’ wages per month. We have confirmed in our research that recruitment agencies and consultancy firms, here in the US and in the Philippines, pocket a great deal of profit from the recruitment and placement of migrant workers. The role of these agencies and firms creates a complex employment relation with migrant workers as agencies “technically” employ workers. Therefore migrant workers are legally bound to the recruitment agency that facilitated their employment in the U.S. Debt peonage becomes a key condition for migrant workers that are then pushed into “illegality” in the U.S.

We argue that the United States’ guest worker program is part of a neoliberalist regime of

transnational regulation of migrant labor. For Filipino workers, this regime includes the Philippine state's labor brokerage in concert with a growing migration industry consisting of recruitment agencies, lending companies and employers in low-wage industries in the U.S.. The role of sending states in the production of "illegal" forms of legal migration as well as facilitating the illegalization of migrants must be interrogated as the profits from the labor of migrant workers are not only collected in receiving states and economies but in sending as well; migrant workers' blood and sweat are becoming more and more profitable for both receiving and sending states.

References:

- Aneesh, Aneesh. 2000. "Rethinking Migration: High-skilled Labor Flows from India to the United States."
- Calavita, Kitty. 1992. *Inside the State: The Bracero Program, Immigration, and the INS*. Routledge New York.
- Castles, Stephen, and Alastair Davidson. 2000. *Citizenship and Migration: Globalization and the Politics of Belonging*. Psychology Press.
- Castles, Stephen, and Mark J. Miller. 2003. *The Age of Migration, Third Edition: International Population Movements in the Modern World*. Third Edition. The Guilford Press.
- Gammeltoft-Hansen, Thomas, and Ninna Nyberg Srensen. 2013. *The Migration Industry and the Commercialization of International Migration*. Routledge.
- Guevarra, Anna Romina. 2009. *Marketing Dreams, Manufacturing Heroes: The Transnational Labor Brokering of Filipino Workers*. Rutgers University Press.
- Harvey, David. 1991. *The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change*. Wiley-Blackwell.
- Hernandez-Leon, Ruben. 2005. "The Migration Industry in the Mexico-U.S. Migratory System" (November 7). <http://www.escholarship.org/uc/item/3hg44330>.
- Hing, Bill. 1994. *Making and Remaking Asian America*. Stanford University Press.
- Hugo, Graeme. 2005. "The New International Migration in Asia." *Asian Population Studies* 1 (1): 93–120.
- . 2013. "Circular Migration: Keeping Development Rolling?" *The Migration Information Source*. Accessed March 13. <http://www.migrationinformation.org/feature/display.cfm?ID=129>.
- Lindquist, Johan. 2010. "Labour Recruitment, Circuits of Capital and Gendered Mobility: Reconceptualizing the Indonesian Migration Industry." *Pacific Affairs* 83 (1): 115–132.
- Massey, Douglas. 1999. "Why Does Immigration Occur? A Theoretical Synthesis." In *Handbook of International Migration: The American Experience*, 34–52. Russell Sage Foundation.
- Ngai, Mae. 2005. *Impossible Subjects: Illegal Aliens and the Making of Modern America*. Princeton University Press.
- Nicholas, P., and De Genova. 2002. "Migrant 'Illegality' and Deportability in Everyday Life." *Annual Review of Anthropology*: 419–447.
- Park, John SW, and Edward JW Park. 2005. *Probationary Americans: Contemporary Immigration Policies and the Shaping of Asian American Communities*. 1st ed. Routledge.
- Paul, Anju Mary. 2011. "Stepwise International Migration: A Multistage Migration Pattern for the Aspiring Migrant 1." *American Journal of Sociology* 116 (6) (May): 1842–86.
- Rodriguez, Robyn Magalit. 2010. *Migrants for Export: How the Philippine State Brokers Labor to the World*. Univ Of Minnesota Press.
- Sassen, Saskia. 1990. *The Mobility of Labor and Capital: A Study in International Investment and Labor Flow*. Cambridge University Press.

1 <http://www.courthousenews.com/2011/11/14/41400.htm>

2 <https://www.facebook.com/pages/DNR-Offshore-and-Crewing-Services-Inc/137172133140077?ref=stream>

3 <http://www.uscis.gov/working-united-states/temporary-workers/h-2b-non-agricultural-workers/h-2b-temporary-non-agricultural-workers>

4 The Times Picayune. *Filipino Ex-employees Say Grand Isle Shipyard Pressed them into 'Involuntary Servitude'*. November 19 2012. Web. March 1 2013.

<http://www.nola.com/crime/index.ssf/2012/11/grand_isle_shipyard_charged_wi.html>

5 Department of Labor. Wage and Hour Division. *US Labor Department Obtains More than \$134,000 in Back Wages for 40 Therapists Employed by Orlando, Fla., Company under H-1B Visa Program Health Care Workers in 15 States Affected*. Wage and Hour Division. Department of Labor, 24 Oct. 2011. Web. 1 July 2012. <<http://www.dol.gov/whd>>.

6 National Alliance for Filipino Concerns. *Florida 15, Sentosa 27... Human Trafficking of Filipinos in the US Continues Under PNoy Administration-- NAFCON*. [Http://nafconusa.org/](http://nafconusa.org/). National Alliance for Filipino Concerns, 16 July 2011. Web. 16 July 2011.

7 <http://globalnation.inquirer.net/26485/taiwanese-official-deported-after-abusing-filipinos>