



**PROTOCOL ON CASE
REFERRAL AND RESOLUTION OF CASES
OF OVERSEAS FILIPINO WORKERS AND
MEMBERS OF THEIR FAMILIES**

AND

**PROTOCOL FOR OFW CASES REPORTED
VIA SOCIAL MEDIA**

Commission on Human Rights
Quezon City, Philippines



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Referral and Resolution of Cases
of Overseas Filipino Workers and
Members of their Families
and
Protocol for OFW Cases Reported
via Social Media**

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And
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Background

The Philippines is a major source country for migrant workers. In its most recent Survey on Overseas Filipinos, the Philippine Statistics Authority (PSA) estimated that there are 2.3 million Filipinos who worked abroad anytime during the period of April to September 2018. According to the UN Migration Report 2017, the Philippines is the ninth largest country of origin for international migrants (with an estimated 5.7 million migrants worldwide). Recognizing the magnitude and significance of OFW contributions, the Philippines has put in place a robust labor migration management system. It is a State Party to the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, relevant UN human rights treaties, and core Labor Conventions of the International Labor Organization. The Philippines enacted laws that regulate the deployment of Filipinos overseas (Migrant Workers Act or Republic Act 8042 as amended by RA 10022) and criminalize trafficking in persons (Republic Act 9208 as amended by RA 10364). It has established trust funds and welfare programs under the auspices of the Overseas Workers Welfare Administration (OWWA) and the Department of Social Welfare and Development (DSWD). The country also has a dedicated agency, the Philippine Overseas Employment Administration (POEA) that regulates the activities of private recruitment agencies and even foreign agents and employers. The protection and promotion of welfare of OFWs is a pillar of the country's foreign policy and a major function of the Department of Foreign Affairs (DFA).

However, OFWs continue to suffer from human rights violations throughout the whole migration cycle – from preparation, to recruitment, transit, employment, and even up to their return and reintegration. They fall into debt bondage and forced labor, and suffer maltreatment and physical abuse while employed. They are vulnerable to gender-based violence. They also lack access to meaningful programs that would help them reintegrate into society and the economy once they return.



Objectives

The Protocol seeks to:

1. Guide CHR officers and personnel in receiving and handling reports of violation of rights of OFWs and members of their families through the Observatory or through its regular reporting mechanisms; and
2. Map out referral pathways for various human rights violations reported by OFWs and members of their families.



CHR Mandate, Powers and Functions

According to its Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance, the CHR shall take cognizance of and investigate, on its own or on complaint by any party, all forms of human rights violations and abuses involving civil and political rights, including but not limited to the following:

- a) Right to life;
- b) Right to liberty;
- c) Right to security;
- d) Right to respect for one's dignity;
- e) Freedom from slavery and involuntary servitude;
- f) Freedom from torture, cruel, inhuman or degrading treatment and punishment;
- g) Right to protection from enforced disappearance;
- h) Freedom from arbitrary interference with one's privacy, family, home, or correspondence;
- i) Freedom from arbitrary arrest, detention, or exile;
- j) Freedom from movement and residence;
- k) Freedom of thought, conscience, and religion;
- l) Freedom of the press, speech, opinion, and expression;
- m) Freedom from discrimination;
- n) Right to marry and found a family; and
- o) Right to own property.

¹ Philippine Statistics Authority, "Total Number of OFWs Estimated at 2.3 Million (Results from the 2018 Survey on Overseas Filipinos) in the 2018 Survey on Overseas Filipinos (SOF)." April 30, 2019, available at <https://psa.gov.ph/statistics/survey/labor-and-employment/survey-overseas-filipinos> (last accessed 16 July 2019).

² UN - Department of Economic and Social Affairs, "International Migration Review," 18 December 2017, available at <https://www.un.org/development/desa/publications/international-migration-report-2017.html> (last accessed 16 July 2019).

The CHR is also tasked to monitor Philippine government compliance with international human rights treaties and instruments to which the Philippines is a state party. This includes, but is not limited to, the actions taken by the Government, the manner and/or means of implementation or application of human rights related laws, principles, norms, and standards, in relation to the State obligations to respect, protect, and fulfill the human rights of all persons within the Philippines, as well as Filipinos residing abroad.



Relevant Human Rights Instruments and International Obligations

The Philippines, as a member of the International Labor Organization (ILO), is covered by the following core labor standards under the Declaration on the Fundamental Rights at Work:

1. Freedom of association and right to collective bargaining;
2. The elimination of all forms of forced and compulsory labor;
3. The effective abolition of forced labor; and
4. The elimination of discrimination in respect to employment and occupation.

The Philippines also signed the International Convention on the Protection of all Migrant Workers and Members of Their Families. The Migrant Workers Convention guarantees fundamental rights and standards for protection for migrant workers regardless of status, race, creed, religion, gender, etc. It guarantees equality of treatment and recalls standards established through ILO Conventions, CEDAW, and Convention against Discrimination in Education.

The Philippines is also obligated by the Optional Protocol to Suppress, Prevent, and Punish Trafficking in Persons, especially women and children (Palermo Protocol). The Protocol defines the crime of trafficking in persons and encourages member states to enact measures to provide legal protection and mandatory services to trafficked persons.



National Laws and Regulations

This protocol shall be informed by the following Philippine Laws:

1. Republic Act 8042 as amended by Republic Act 10022 or the Migrant Workers Act;
2. Republic Act 9208 as amended by Republic Act 10364 or the Expanded Anti-Trafficking in Persons Act; and
3. Rules and regulations of implementing agencies.



The Migrants Rights Observatory: CHR Areas of Inquiry on the Rights of Migrants, OFWs and Members of their Families

The CHR is duty-bound to respond to and/or cause the response to cases brought to its attention. For its monitoring function, it will focus on gathering information on the following indicators:

1. Structural Indicator: Bilateral and other forms of agreements between the Philippines and countries of employment/destination that guarantee decent work and access to justice for OFWs;
2. Process Indicator: Functioning mechanisms that monitor adherence to and compliance by both parties;
3. Process Indicator: Response time by Philippine authorities in responding to reports of rights violations;
4. Outcome Indicator: Number of women and children who are provided with rescue and repatriation services by the government;
5. Outcome Indicator: Number of successful prosecution and/or labor claims in both the Philippines and countries of destination; and
6. Outcome Indicator: Number of OFWs and families who have availed of livelihood, education, or training programs for their reintegration.

³ Article 13, Section 18 (3 and 7), 1987 Philippine Constitution.

I. Protocol in Handling Cases in the CHR

A. Assessment of Reports (Complaint/Concern)

1. Source: Reports (Complaints/concerns) may come from any of the following:
 - a) OFW;
 - b) Immediate family of OFWs;
 - c) NGOs;
 - d) Private sector stakeholder (i.e., recruitment agency, clinics);
 - e) Filipino community association.
2. Upon receipt of report (complaint/concern), the CHR case officer/personnel receiving the report (complaint/concern) shall gather and document the following information:
 - a) Name of OFW, contact number, and passport number;
 - b) Country of Employment;
 - c) Occupation/Nature of Work;
 - d) Name and Address of Employer;
 - e) Name of Philippine-based Private Recruitment Agency;
 - f) Name of Foreign Recruitment Agency; and
 - g) Whether there has been a settlement signed by the OFW and if he/she has been assisted by legal counsel in any stage of his/her complaint/concern.
3. The CHR personnel/case officer shall also determine the current location of the OFW.
4. On the nature of the complaint/concern, the CHR will determine the following:
 - a) Is the complaint/concern on:
 - i. Violation of Terms of Contract;
 - ii. Inhumane working conditions and unfair treatment;
 - iii. Non-payment of wages and other benefits;
 - iv. Physical abuse or threat of physical abuse;
 - v. Sexual abuse or threat of sexual abuse;
 - vi. Illegal recruitment (excessive placement fees, recruitment by non-licensed agencies or individuals with no authority, etc.);
 - vii. Recruitment of Minors;
 - viii. Inability to access government services;
 - ix. Complicity or involvement of government officers, both from the Philippines and countries/ areas of employment.
 - b) The CHR personnel/case officer will also look into the following:
 - i. Is the passport and/or other travel documents in the possession of the employer or the foreign recruitment agency?
 - ii. Is the OFW able to leave the place of work? Or are there physical or other forms of restrictions (i.e. threat of denunciation to authority)
 - iii. Can the OFW contact outside help?
 - iv. The manner by which the OFW reached the country/area of employment (i.e., OEC, Balik Manggagawa, tourist visa, etc.)
 - c) If the complaint/concern is about (or has elements on) the inability of the OFW/Family to access government services, the CHR personnel/case officer shall gather the following information:
 - i. Nature of service requested from government;
 - ii. Concerned government agency and the name of official who handled the request;
 - iii. Date when request was made;
 - iv. Last date of follow-up; and
 - v. Last statement from the concerned agency.
 - d) Upon completion of the information, the CHR personnel/case officer shall:
 - i. Assure the source of the report/complainant of the confidential nature of information shared and that the information shall only be forwarded to the relevant government agency.
 - ii. If necessary, assist the OFW or the Family member of OFW in filling up the required form.
 - iii. Prepare an endorsement letter copy furnishing the complainant.
 - iv. Orient the source of the report/complaint/concern on the course of action to be taken by the CHR.

Note: It will be helpful as well to the CHR official who will handle and assess the cases to look into the complaints according to the cycle of migration: preparation, predeparture, on-site, transit, return and reintegration. If complaint is severe, the CHR must decide on the protocol it should take, for example escalate it to a more experienced officer, call the attention of the concerned government agency or an emergency case conference in CHR.

B. Initial Determination

1. The CHR personnel/case officer shall evaluate the information and determine whether there is imminent danger to the OFW. Imminent danger shall mean that there is a risk of injury or loss of life against the OFW.
2. The CHR personnel shall document the information and determine where to refer the case or whether a direct action by the CHR is warranted. The report/complaint/concern shall be further classified based on the following: (insert the cycles of migration).

C. Referrals to Government

In referring the case to a government agency, the CHR personnel/case officer shall observe the following:

Government Agency	Nature of Complaint	Requested Action
Philippine Overseas Employment Administration/Overseas Workers Welfare Administration/Other DOLE Offices (SENA)	• Violation of terms of contract • Inhumane working conditions • Unfair treatment • Non-payment of wages and other benefits Other circumstances: • OFW was deployed through a recruitment agency • OFW can either be on-site or have already returned	• Removal from exploitative situation • Repatriation • Claims for unpaid salaries/benefits • Reparation from employers
	• Illegal Recruitment	• Investigation, arrest, and filing of case against illegal recruiters

⁴ Under DOLE- Department Order No. 151-16, the Implementing Rules and Regulations of Republic Act No. 10396 entitled "Ac Act Strengthening Conciliation – Mediation as a Voluntary Mode of Dispute Settlement for all Labor Cases", Single Entry Assistance Desks (SEADs) were established in Philippine Overseas Labor Offices (POLOs) for the purpose of conducting the mandatory mediation-conciliation services of the Single Entry Approach (SEnA).

Under present rules, the POLO has to conduct mandatory mediation-conciliation proceedings between the employer and the complaining OFW. Although this situation is not directly covered by the established referral system between CHRP and NHRC Qatar, we have observed in some OFW cases that we have handled that human / migrants' rights violations are being committed against the OFWs in the SEnA process at the POLOs.

In mediation-conciliation proceedings before the POLOs, the complaining OFW has no legal counsel and has no access to proper legal advice. In some situations, abused/maltreated OFWs are left with no choice but to enter into an amicable settlement with their foreign employer. In exchange for their exit visa, plane ticket to the Philippines, sometimes with a little cash, the OFWs are required to sign an amicable settlement and a release, waiver and quitclaim in favor of his/her foreign employer, the foreign employment agency and the recruitment agency in the Philippines. Once the SEnA Desk Officer confirms that a settlement has been reached, chances are, the OFW can no longer file a labor claim before the NLRC upon return to the Philippines.

SEnA at POLO, adds another layer of legality that must be overcome by the OFW who decides, upon return to the Philippines, to file a money claim before the NLRC. In addition to the final and immediately executory nature of the compromise agreement under SEnA, the OFW has to contend also with additional argument of presumption of regularity in the performance of the regular duties of the POLO officers.

In summary, there are human/migrant rights concerns under SEnA at POLO:

1. No available legal counsel/advice for the OFW;
2. Settlement bars filing of case in the Philippines; and
3. Return of confiscated passport/IDs/travel documents are used by employer to bargain in exchange for exit visa/plane ticket and execution of waiver and quitclaim in favor of employer.

The CHR should also look into the human/migrant rights violations faced by OFWs during SEnA at the POLOs and provide an advisory to address the issue.

	- Physical abuse or threat of physical abuse - Sexual abuse or threat of sexual abuse Other circumstances: - OFW was deployed through a recruitment agency - OFW can either be on-site or have already returned	- Removal from exploitative situation - Repatriation - Claims for unpaid salaries/benefits - Reparation from employers - Assistance in filing criminal case against abusers
Department of Foreign Affairs – Office of the Undersecretary for Migrant Workers Affairs	- Violation of terms of contract - Inhumane working conditions - Unfair treatment - Non-payment of wages and other benefits If OFW is still onsite and entered country/area of employment through means other than through recruitment agencies, government to government agreements, or other means sanctioned by the POEA.	- Repatriation - Legal Assistance for claims for unpaid salaries/benefits and Reparation from employers
	- Physical abuse or threat of physical abuse - Sexual abuse or threat of sexual abuse If OFW is still onsite and entered country/area of employment through means other than through recruitment agencies, government to government agreements, or other means sanctioned by the POEA.	- Removal from exploitative situation - Legal assistance (on-site) - Repatriation
Inter-Agency Council Against Trafficking (IACAT)	All cases enumerated above if the following circumstances are present: - Passport and travel documents are confiscated - OFW is restricted by force or violence, threat of force or violence to the OFW or family member of OFW, deception, debt, or threat of denunciation to authorities.	

- The referral shall be made in writing, and attaching the case information sheet, the letter from the OFW or the next of kin, and other evidence provided to the CHR.
- The CHR shall request a focal person from among the government agencies who will be directly handling referrals coming from the CHR.

D. Monitoring and Tracking

- For cases requiring direct action by the CHR, specifically:
 - Inability to access services:* The CHR shall write a letter to the concerned agency detailing the complaint of the OFW. The CHR shall conduct follow-up actions and document the response time of the agency. Whenever warranted, the CHR shall strive to protect the confidentiality of the complainant.
 - Alleged complicity or involvement of government officers, both from the Philippines and countries/ areas of employment.* The CHR shall take a formal statement from the complainant. Depending on the nature of the case, the CHR may conduct its

own fact-finding investigation, in accordance with established procedures.⁵ The CHR shall strive to protect the privacy and security of the complainant and ensure her/his safety, and the confidentiality of documentation related to the case.

2. For cases referred by the CHR with other agencies. The CHR shall track the response time of the referred government agencies, with the end view of establishing a benchmark for prompt and effective response based on the CHR Omnibus Procedures. It shall also solicit information on the actions taken by responsible government agencies of the area/country of employment, in cooperation with the DFA and the Embassies.
3. Entry of information into the CHR case management system. The reported cases of violations (organized according to what rights were violated), the response time of government, and other relevant information shall be entered into the CHR case management system for use by the Observatory.

II. Coordination with Other NHRIs

In cases where there are NHRIs in the area/country of employment of the OFW, the CHR shall endeavor to share the information with the counterpart NHRI with the intent of ensuring prompt and effective actions by the government of the area/country of employment. To protect the confidentiality of the case and privacy of OFW and their families, the CHR shall formulate agreements and information sharing protocols with other NHRIs.

The National Human Rights Committee of Qatar (NHRC Qatar) and the Commission on Human Rights of the Philippines (CHRP) signed a Cooperation Agreement in January 2019, which seeks "to foster close relation between the Parties by defining the areas and rules for the implementation of the provisions of the agreement, which they can collaborate in the efficient and effective promotion and protection of human rights especially those of migrants, migrant workers and members of their families in their respective countries. It also aims to ensure bilateral communication and exchange of information between the Parties including those relating to complaints of migrant workers and their families or violation of their rights."

The agreement consists of 9 articles. Article 3: Areas of Cooperation is the central section of the agreement. It enumerates 10 areas, covering promotion (training, joint activities on human rights days), protection (case handling and referral) and policy advocacy (monitoring of enforcement of laws).

The focus of this protocol is Article 3.4, which states, "Referral to either of the parties of individual cases which may require intervention by the Party to whom the cases are referred, as well as giving timely response and regular updates by the intervening Party."

NHRIs are not service providers, they are the watchdog of governments. NHRIs receive the cases from migrant workers and their families or civil society organizations being brought to their attention and strive to provide them the appropriate action. What NHRIs do is monitor the process; it is not for the NHRIs to be the actual implementer of the laws. The added value is NHRIs can monitor what happens to the cases, and call on government agencies and remind them of their duties as prescribed by migration laws and policies. The added value of NHRIs is that they are allies, and it is very important the CHRP works with the NHRC of Qatar in monitoring government compliance [to treaties] in Qatar.

The following sections outline the process of case intake in NHRC Qatar, and the NHRC-Qatar – CHR process flow on case referral and resolution of cases.

⁵ Commission on Human Rights of the Philippines, *Guidelines and Procedures in the Investigation and Monitoring of Human Rights Violations and Abuses, and the Provision of CHR Assistance*, 2012, available at <https://drive.google.com/drive/u/0/folders/0B4mINsxbJiCWQXJMOVBUStNIMTQ>

⁶ Cooperation Agreement Between the National Human Rights Committee of Qatar And The Commission on Human Rights of the Philippines, signed on 9 January 2019, Quezon City, Philippines, available at http://chr.gov.ph/wp-content/uploads/2019/01/CHRP-NHRC-Qatar-Cooperation-Agreement_English.pdf

Based on the presentation of Nai Shmariha, Legal Expert, NHRC Qatar, "Rights and Duties of the Filipino Community in Qatar between International Standards and National Laws" on 27-28 May 2019.

Protocol in Handling Cases in the National Human Rights Committee - Qatar

The NHRC Qatar receives complaints directly from the aggrieved person, through email, fax or hotline. Any complaint NHRC receives would be given a reference number by the reception desk.

If a person is unable to file a complaint, a representative can file on her/his behalf. The complaint will be referred to the NHRC legal expert, who checks if the complaint falls under the responsibility of the NHRC. They will interview the petitioner, and will request for documents that support their complaint.

The legal expert will look for an amicable solution. Otherwise, he/she will contact the Work Department or the Ministry of Labor. If the complaint is about money claims, placement of worker, the expert will contact the Legal Department of NHRC Qatar.

The Legal Department of NHRC Qatar conducts visits to detention centers, as they have the mandate to visit these centers without prior notice, including hospitals, and police stations.

If a complainant needs legal support and cannot afford a lawyer, NHRC Qatar offers legal services free of charge.

Complainants may, likewise, approach community desks established by the NHRC for migrant workers from India, the Philippines, Nepal, Egypt, Pakistan and Nigeria. The purpose of the community desks is to facilitate the access of community members to the services of NHRC Qatar.

The community desk volunteer does not assess the complaint. Upon receipt of the complaint, he/she refers it to the legal expert and the researcher of NHRC. The form "Application for Petition" must be filled out by the complainant (see annex), which is a questionnaire developed by the Legal Department.

As for the follow-up and monitoring, the assigned legal expert can contact the government agency or the company. If the latter does not respond, NHRC can summon them. If the legal expert is not satisfied, he/she may refer the case to the Ministry of Labor (Work Department), the Legal Department will follow up through letters to the concerned government ministries.

III. NHRC Qatar – CHRP Process Flow on Case Referral and Resolution

Assuming that the processes of NHRC Qatar and CHRP in Receipt of Reports and Initial Determination are followed, the two NHRIs will collaborate on the processes of Referrals to Government and Monitoring and Tracking.

A. Referrals to NHRC Qatar

When a case is reported to the CHRP directly from OFWs, their families or civil society organizations/ support groups and trade unions in Qatar or/and in the Philippines:

1. CHRP will follow CHRP protocol on Receipt of Reports and Initial Determination;
2. CHRP will contact NHRC Qatar by letter, email or instant messaging application and inform them of its Initial Determination of the case/s; correspondence is also sent to the DFA, the Philippine Embassy and the Philippine Overseas Labor Office (POLO);
3. NHRC Qatar will activate its own protocol on case intake and referral to the following (not an exhaustive list):
 - Ministry of Interior (Police Department) : absconding and theft cases
 - Ministry of Administrative Development, Labour and Social Affairs :
 - labor related cases (non-payment of wages; dismissal, etc)
 - Ministry of Interior (Criminal Investigation Division) : deportation cases
4. NHRC Qatar can facilitate visits to the locations of the OFWs, in coordination with the Philippine Embassy and POLO;
5. NHRC Qatar can update the CHRP of the status of the cases by letter, email or instant messaging. CHRP can also provide more information and updates as well from their side of the referral protocol.

⁸ NHRC Qatar, Application for Petition, available at <https://nhrc-qa.org/en/themencode-pdf-viewer/?file=https://nhrc-qa.org/wp-content/uploads/2017/08/complaintform.pdf> (Last accessed 5 January 2020)

⁹ From NHRC Qatar, 9 January 2019. Not an exhaustive list. NHRC Qatar shall update CHRP regularly.

In referring the case to a government agency in Qatar, the NHRC Qatar and CHRP case officers shall be guided by the flowcharts as illustrated in the annex.

IV. Laws, Policies and Institutions in Qatar Aiming for the Protection of Migrant Workers

1. **Decrees Nos. 40 and 41 of 2018** on the accession of the State of Qatar to the International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights.
2. **Law No. 13 of 2018** regulates the entry and exit of expatriates, and abolished the exit permit for expatriate workers during the term of the contract without restrictions, and helps promote and protect the right to freedom of movement and travel. Employers may exclude a percentage not exceeding 5% of the workers in the facility due to the nature of their work where they should obtain the approval of the competent authority to leave the state. For workers not subject to the Labor Law No. 14 of 2014, the regulations and procedures for their departure from the country shall be determined by a decision of the Minister. The applicant shall submit a request to the Appeals Committee to decide on the request concerning leaving the country within three working days.
3. Opening of the **International Labour Organization (ILO) Doha Office** in April 2018 to support the implementation of a comprehensive program on working conditions and labor rights in the state. During the program period (2018-2020), the ILO Technical Adviser in charge of the program will submit an annual progress report to the ILO Governing body at its November session each year. The report shall cover several objectives including:
 - a) Wage protection: the adoption of a statutory minimum wage and expanding the scope of the implementation of the wage protection system;
 - b) Labor Inspection Policy will be implemented to monitor occupational health and safety, where the powers of labor inspectors will be effectively applied, communication with expatriate workers will be enhanced through providing interpretation and the activation of the system of registering work injuries and occupational diseases.

The State of Qatar will implement a national plan of action on forced labor, including measures to address the phenomena of withholding of passports, contract substitution or alteration, and any impediment to the right of victims to access justice, and to strengthen complaints mechanisms.

4. **Council of Ministers Decision No. (15) of 2017** on the establishment of the National Committee to Combat Human Trafficking that act as the national coordinator of monitoring, preventing and combating trafficking of human beings. The State of Qatar is working hard to find solutions to tackle the problem of unethical recruitment practices. It recently hired VFS Global, a Management Services Company, specialized in labor recruitment and following ethical norms, and adopted a decent work strategy. Inspired by Sri Lanka's first outsourcing center that grants visas to expatriates and provide contract signing services, the state of Qatar is expected to open dozens of similar centers in labor-exporting countries. In the Philippines, the One-Stop Qatar Visa Center opened on 25 September 2019 in Pasay City, Philippines.
5. The Ministry of Labor implemented the new E-Contract System to prevent trade in visas and contract substitution or alteration. This system requires the existence of a contract concluded directly between the recruiter and the job seeker, and a work visa. This will contribute to the fight against human trafficking in the labor-exporting countries and the receiving countries.
6. **Law No. 17 of 2018** establishing the Workers' Support and Insurance Fund aims to provide the necessary financial resources to support and secure the workers, including the benefits ordered by the Commission on Dispute Resolution.
7. **Law No. 15 of 2017 on Domestic Workers**, which for the first time grants rights to domestic workers following their exclusion from the Labor Code. It determines minimum and maximum age for domestic workers of both sexes, the maximum number of working hours with breaks, a weekly holiday of at least twenty-four consecutive hours, three-week paid annual leave and end of service benefits. This is in addition to the Law on the Establishment of the Commission on Settlement of Labor Disputes, which decides on the dispute within three weeks of the first hearing; in addition to the draft law establishing the Workers' Support Fund in case of insolvency of enterprises or refusal by employers to pay for benefits.

¹⁰Raymond Carl Dela Cruz, One-stop Qatar Visa Center launched in Pasay, PHILIPPINES NEWS AGENCY, 25 September 2019, available at <https://www.pna.gov.ph/articles/1081431> (last accessed 13 January 2020).

8. **Law No. 13 of 2017 amending certain provisions of the Labor Code and the Code of Civil and Commercial Procedures**, which provides mechanisms for achieving justice and remedies for workers without imposing any material burdens. The law provides for the establishment of one or more committees called the Committee for the Settlement of Labor Disputes headed by a judge of the Court of First Instance chosen by the Supreme Council of the Judiciary and two judges nominated by the Minister of Labor. The Committee decides on disputes within three weeks of the first hearing of the dispute before it. The members of the Committee shall be independent and shall issue their decisions subject to expedited enforceability. The concerned parties may appeal against the decision issued by the Committee before the competent division of the Court of Appeal within fifteen days from the date of issuance of the decision by the committee. The competent division shall examine the appeal promptly and shall adjudicate it within thirty days from the date of the first hearing before it.
9. Continuing to promote the **abolition of the sponsorship system since the promulgation of Law No. 21 of 2015** regulating the entry and exit of expatriates and their residence. The sponsorship system has been replaced by the system of contracts between companies and workers. The law was introduced in October 2016. In early 2015, the law of the protection of wages required employers to transfer wages to one of the financial institutions in the state within seven days from its due date. The violators of the system shall be fined between 2000 to 6000 Qatari riyals per worker or sentenced to imprisonment for up to one month, in addition to implementing procedures to stop dealing with the violating company. This was followed by the establishment of the Wage Protection System (WPS) by the Ministry of Labor. WPS, a comprehensive electronic system that monitors and documents employee wage payments, shall be implemented gradually and effectively. The number of workers whose salary was transferred as of April 2017 was 1,371,312 workers.



CHR Protocol for OFW Cases Reported via Social Media

- A. **Intended Users:** CHR officers and personnel receiving and handling social media reports on violation of rights of Filipino migrant workers.
- B. **Objectives:** Establish policies and procedures in handling all OFW cases – from initial response, to validation of information, proper referral, and monitoring of development and final resolution of the case.
- C. **General Guidelines**
1. The CHR's officially designated Social Media Case Handlers receive and respond to OFW cases reported through social media in a timely and appropriate manner. The Head of the Strategic Communications Division shall establish benchmarks for timely action on OFW cases.
 2. Reports shall be treated as private and confidential, and may be shared only with the authorized officer of the CHR or the concerned government agency, with the consent of the reporting party.
 3. The Social Media Case Handler and other officials handling the cases shall apply established rights-based guidelines in responding to and referring reports.
 4. All referrals to concerned agencies shall be documented and monitored. The CHR, in consultation with the concerned government agency, shall establish agreed timelines for the resolution and/or closure of the cases through a terminal report to the CHR.
 5. The Social Media Case Handler/s shall respond to the reports only through the Official Social Media account of the CHR.

D. OFW Social Media Case Handler: Duties and Responsibilities

OFW Social Media Case Handlers designated by the Executive Director have the following duties and responsibilities:

1. Respond to all OFW cases, information and reports forwarded to CHR social media platforms and other sources, including those enumerated in the next Section E;
2. Prepare a brief report for the CHR Case Officers prompt and appropriate action; and
3. Provide a weekly status report for the affected OFW (to enable her/him to respond to other third party queries).

E. Sources of Reports and Information

1. Official Facebook Page of the Commission on Human Rights
 - a.) Reports sent by OFWs or their families through the Official Facebook Page and acknowledged by an OFW Case Handler through his/her official Messenger account are to be treated with confidentiality.
 - b.) Readers' Comments. Social Media Case Handlers shall regularly review the comments section for any reported case by OFWs or their families. The Social Media Case Handler shall acknowledge receipt of the report and request further details through his/her private FB messenger account.
2. Personal Social Media Accounts of CHR Officials (Facebook, Twitter, Instagram, etc.). In all cases, the CHR official/s shall:
 - a.) Inform the reporting party that his/her report will be turned over to the Social Media Case Handler/s, and advise him/her to make follow-ups through the assigned Case Handler's FB Messenger account; and
 - b.) Include all details earlier provided by the reporting party.

The Social Media Case Handler/s shall furnish a copy of the case status report to the CHR Official who originally referred the case.

3. Tags, Hashtags or Postings from the Public. The Social Media Case Handler/s shall monitor tags and hashtags on CHR every day. When a tagged post contains information on the reporting party, the Social Media Case Handler who acknowledges the case requests further details only through his/her official Messenger account.

F. Responses/Messages

1. Opening/Greetings
 - a.) Social Media Case Handler introduces herself/himself;
 - b.) Acknowledges that s/he has received the report and is ready to help;
 - c.) Requests for additional information; and
 - d.) Assures the OFW reporter of confidentiality and privacy
2. The FB Messenger could be set-up to auto-reply with the following templates:
 - a.) Greetings: "Magandang umaga po. Ang CHR ay handang makinig. Ano po ang aming maipaglilingkod?"
 - b.) For Messages that indicate cases of possible violation of rights of OFWs: "Magandang umaga po. Ako po si (Name of Social Media Case Handler) ng Commission on Human Rights. Nakita po namin ang inyong post/message at handa po kaming tumulong. Maaari po ba kaming humingi ng karagdagang impormasyon? Ang mga impormasyon na ibibigay po ninyo ay confidential at ako at ang mga tutulong sa inyo lamang ang makaaalam."

G. Information Gathering

1. Basic Information

The reporting party shall provide the following information:

- a) Name of the OFW (Pangalan ng OFW)
- b) Age (Edad)
- c) Gender (Kasarian)
- d) Country of Employment (Bansa na Pinagtatrabahuhan)
- e) Occupation (Trabaho)
- f) Contact Number of the OFW
- g) Name of Employer or Company (Pangalan ng Employer o Kumpanya)
- h) Philippine Recruitment Agency
- i) Nature of complaint (Ano ang problema?)
- j) Relationship of the reporting party to the OFW, if the OFW is not the reporting party. (Kaugnayan sa OFW, kapag hindi ang OFW mismo ang nagri-report.)

In case the reporting party is not the OFW herself/himself, the Social Media Case Handler asks if the OFW could be contacted, and at what time. This would help the CHR Case Officer determine whether the life and safety of the OFW is at risk.

Proposed Template for Message:

"Salamat po! Puede po bang makuha itong mga detalye. Para po malaman namin kung paano po kami makatutulong."

- a) Pangalan ng OFW
- b) Edad ng OFW
- c) Kasarian ng OFW
- d) Saang bansa nagtatrabaho
- e) Ano ang trabaho
- f) Pangalan ng Employer
- g) Recruitment Agency sa Pilipinas

“Puwede po bang pakikuwento kung ano ang suliranin ng OFW?”

“Kaanu-ano po ninyo ang OFW?”

“Puwede po bang malaman kung ano po ang inyong relasyon sa OFW? Puwede rin po bang makuha ang contact number ng OFW? Puwede po bang makuha ang contact number ng kapamilya ng OFW na nandito sa Pilipinas?”

“Puwede po bang ma-contact ang OFW? Mga anong oras po?”

2. Additional Information

To guide the Case Officer, the Social Media Case Handler asks if the case had already been referred to a government agency? If yes:

- a) To whom?
- b) When?
- c) What were the responses/promises of the agency?

In subsequent conversations (with the OFW or the family of the OFW) and whenever necessary, the Social Media Case Handler may request the following:

- a) Address of the OFW here in the Philippines
- b) Address and Contact Details of the Employer/Company of the OFW
- c) Name, Address, and Contact Details of the Foreign Recruitment Agency
- d) Passport Number
- e) Date of Arrival in Country of Employment
- f) Date of Repatriation to the Philippines

H. Validation of Information

The Social Media Case Handler validates the information through the following:

1. Contacting the OFW herself/himself; and
2. Contacting the immediate family of the OFW here in the Philippines.

Additional validation will be done by the CHR Case Officer.

3. Report and Referral to the CHR Case Officer: The Social Media Case Handler collates the information in the following format.

Personal Details	
Name of the OFW	
Age and Gender	
Contact No. of the OFW	
Address of the OFW in the Philippines	
Contact No. of the Family of the OFW	
Employment and Deployment Information	
Country of Employment	
Occupation	
Name of Employer	
Address/Contact No. of Employer	
Name of Foreign Recruitment Agency	
Address/Contact No. of FRA	
Name of Philippine PRA	
Address/Contact No. of PRA	
Nature of Complaint	
Nature of the complaint (may be more than one)	Physical abuse Verbal abuse Sexual harassment abuse Non-payment or delay in payment of wages Contract Violation Contract Substitution Illegal Recruitment Trafficking in Persons Confiscation of passport Illegal fees Others (please specify)

Please provide details (as reported)	
Requested action/service	
Government agency where the case was first reported	
Date when the case was reported to the government agency	
Response of the government agency	
Name and contact no. of the government agency representative	
About the Reporting Party (if not the OFW)	
Name of the Reporting Party	
Contact Details	
Relationship to OFW	
Assessment of the Social Media Case Handler	Please indicate: Imminent threat to OFW's life and safety? Suggested course of action?

I. Subsequent Actions and Monitoring

The Social Media Case Handler submits the report to the CHR Case Officer-in-Charge of OFW concerns, and informs the reporting party and/or OFW/family member of said endorsement and of updates on the steps taken by the CHR.

The Case Officer follows the CHR Protocol on Handling and Monitoring of OFW Cases, and, when needed, requests the Social Media Case Handler for additional information or further validation. The Social Media Case Handler may arrange online interviews or conversations between the Case Officer and the OFW.

The Case Officer shall provide the Social Media Case Handler with daily or weekly updates. The latter updates the reporting party at least once a week, and checks on the reporting party or the OFW if there are new developments.

Monitoring will stop once the OFW or family has received the desired service.

All cases received, the information collated, and actions taken shall be entered into the CHR Case Database.

J. Handling Inquiries

- The Social Media Case Handler shall collate information on the following:
 - Online portals, social media pages, and/or hotlines of government agencies providing services to OFWs; and
 - Updated links on programs and services for OFWs, both national and global.
- The collated information will be useful in responding to inquiries

Sample Message:

Salamat po sa inyong tanong. Ang impormasyon tungkol sa livelihood program ng OWWA ay matatagpuan sa <https://www.facebook.com/OWWAofficial/>. Maari po kayong mag-message sa kanila.

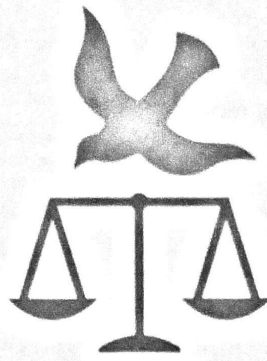
- Should the OFW complain that the pages are non-responsive, the Social Media Case Handler may collate the inquiries, refer this to the CHR Case Officer for OFWs, who will formally request for response from the government agency.

Sample Message:

Maari po namin kayong tulungan na itanong ito sa (name of government agency). Ipapasa po namin kaagad sa inyo ang kanilang tugon.

K. Final Notes

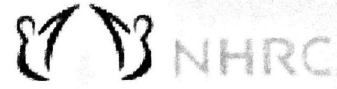
- As much as possible, only one Social Media Case Handler will handle a particular case from start to finish. Acquiring sensitive information requires trust between the reporting party and the Case Handler, and keeps the confidentiality of the parties.
- The Social Media Case Handler shall immediately flag cases involving gender-based violence or human trafficking. A protocol for online counseling for such cases shall be evolved, in partnership with the DSWD and other qualified institutions.



Annex

- I. NHRC Qatar Complaint Form**
- II. Conforme Agreement with NHRC Qatar**
- III. Signed Flowcharts with NHRC Qatar**

Annex I.



اللجنة الوطنية لحقوق الإنسان
National Human Rights Committee
Doha - Qatar

Application for Petition (طلب التماس)

رقم الالتماس	تاريخ التقديم
نوع الالتماس	الموظف الملتصق

Applicant's Personal Data

Name	Nationality
ID Number	
Date & Place of Birth	
Address	
Mob. Number:	Tel. Number:
Applicant's employer name	Tel. Number
Applicant's Signature	

Applicant's Personal Data (In case the application submitted by any other party)

Name	Nationality
ID Number	
Date & Place of Birth	
Address	
Mob. Number:	Tel. Number:
Applicant's employer name	Tel. Number
Applicant's Signature	

إجراءات قسم الإستقبال والتسجيل: اسم مدخل البيانات: التاريخ:

التوقيع:

Complaint Subject:

Signature of the Petitioner / Petitioner's Representative

Attachments:

- (1)
- (2)
- (3)
- (4)
- (5)
- (6)
- (7)

Conforme Agreement

Between

**The National Human
Rights Committee of Qatar**

And

**The Commission on Human Rights
of the Philippines**

This **CONFORME AGREEMENT** made and entered into between:

The **Commission on Human Rights of the Philippines** based in Quezon City, Philippines, hereafter referred to as the Commission, and represented by its Chairperson, **Atty. Jose Luis Martin Gascon**

And

The **National Human Rights Committee of Qatar**, based in Doha, Qatar, PO Box (24140), hereinafter referred to as the Committee, and represented by its Vice Chairperson, **Dr. Mohammed Saif Al-Kuwari**.

WITNESSETH:

Whereas, herein Parties entered into a Cooperation Agreement in March 2019;

Whereas, the Parties wish to implement the Cooperation Agreement further by crafting a Case Referral Protocol (hereinafter "protocol") for the promotion and protection of the human rights especially those of Filipino workers and the members of their families in Qatar;

Whereas, this Conforme Agreement shall serve as a promise between the parties to continue with the process of drafting the protocol until such is finalized and implemented;

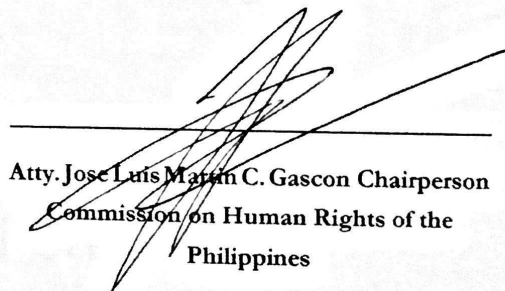
Whereas, the Parties agree to conclude and approve the protocol as soon as possible but in not more than two (2) months from the signing of this Conforme Agreement;

Therefore, the Parties hereby sign this Conforme Agreement for all intents and purposes as indicated above.

This Conforme Agreement is signed by both of the Parties on the twentieth (20th) of February, Two Thousand and Twenty (2020) in Quezon City, Metro Manila, Philippines.

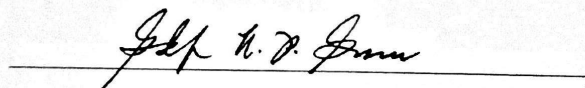


Dr. Mohammed Saif Al-Kuwari
Vice Chairperson
National Human Rights Committee of the
State of Qatar

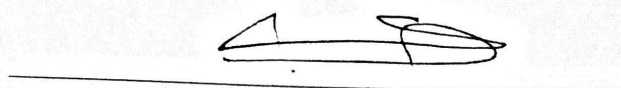


Atty. Jose Luis Martin C. Gascon Chairperson
Commission on Human Rights of the
Philippines

IN WITNESS WHEREOF, the Parties have duly signed this Conforme Agreement as of the date first written above.



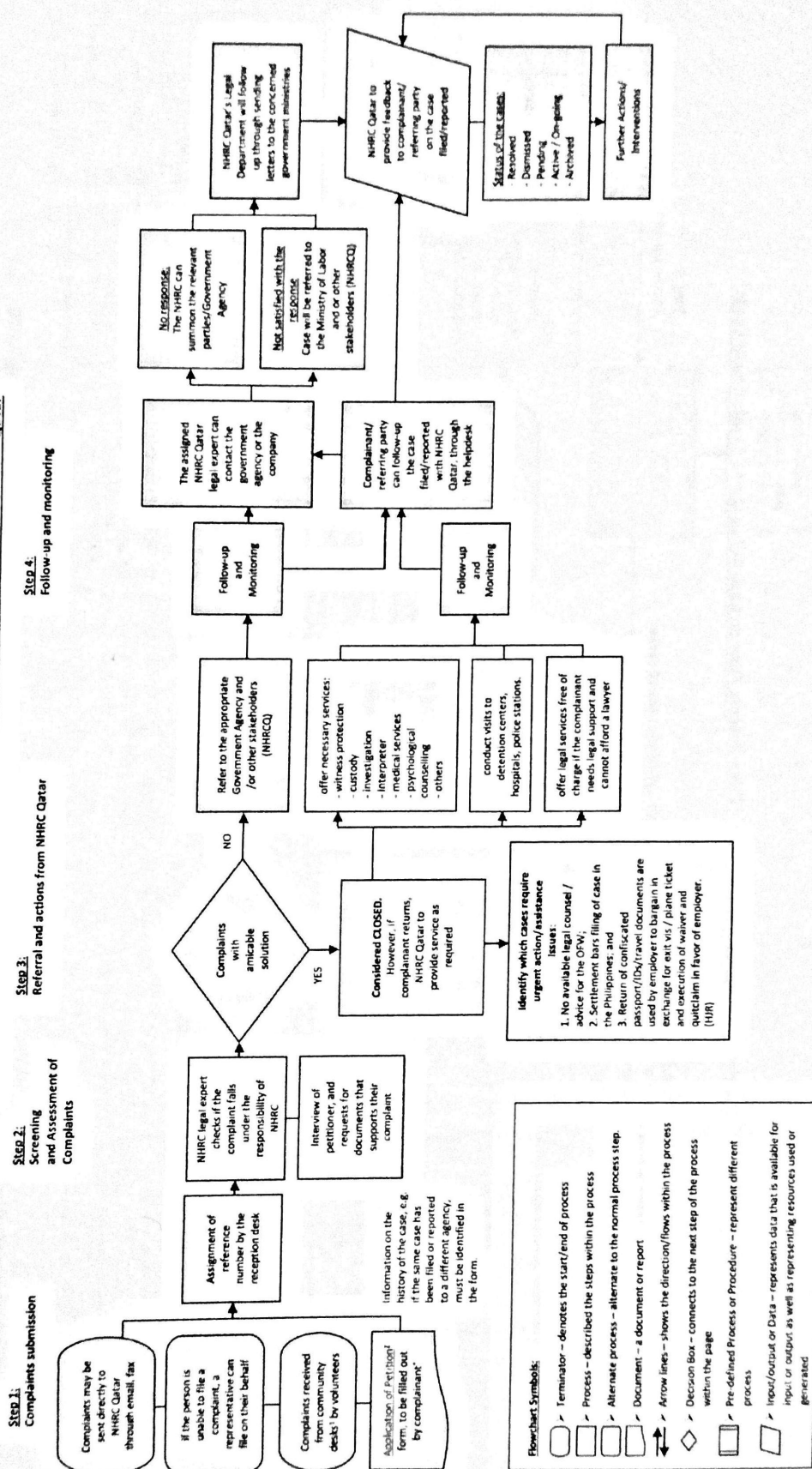
Atty. Gwendolyn L.L. Pimentel-Gana
Focal Commissioner for Migrants' Rights
Commission on Human Rights of the Philippines



Mr. Hamad Ali Afifa
Third Legal Researcher
International Labour Relations Department



Flowchart 1: Protocol in Handling Cases in the National Human Rights Committee – Qatar



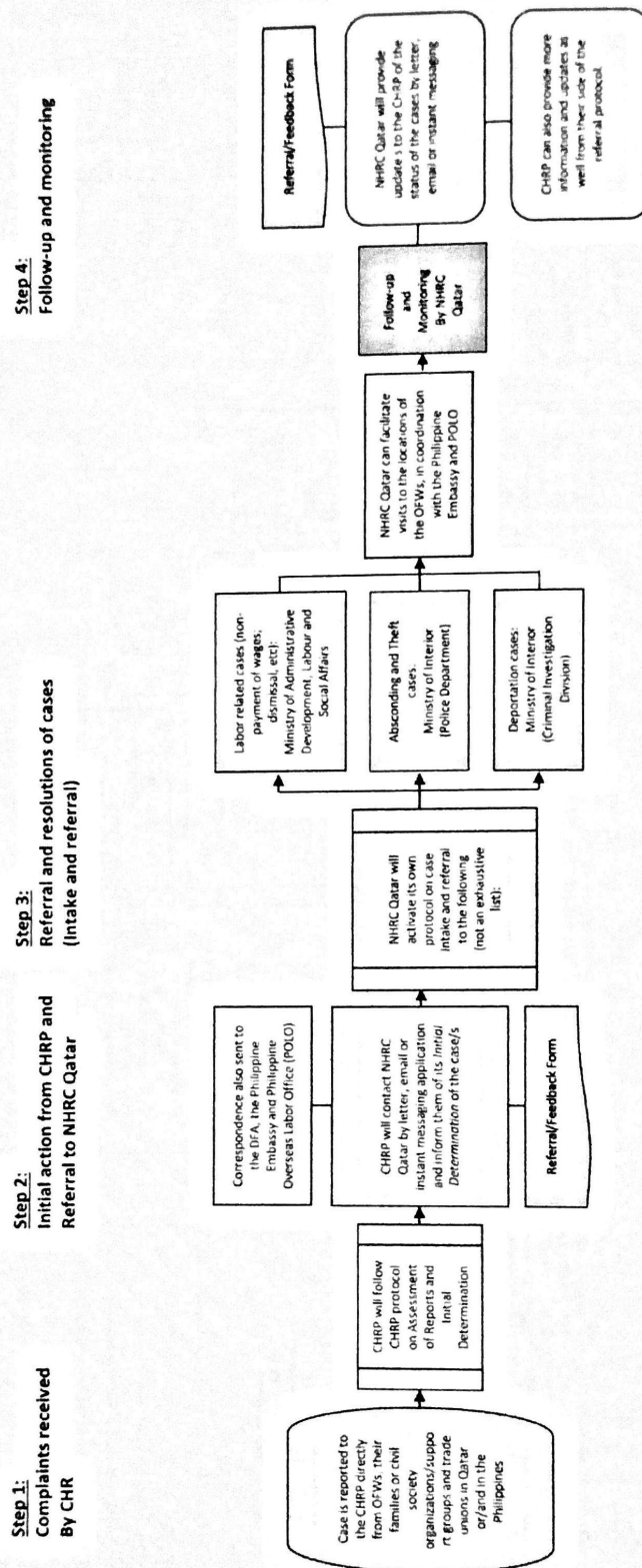
¹ In 2015, NHRC Qatar established community desks – for migrant workers from India, the Philippines, Nepal, Egypt, Pakistan and Nigeria. The purpose of the community desks is to facilitate the access of community members to the services of NHRC Qatar.

² NHRC Qatar, Application for Petition, available at <https://nhrc.qa.org/qa/commencode.pdf>, viewed 7/10/2020.

³ Recommendation for NHRC to coordinate very closely with POLO in handling the cases since POLO's mandate is to resolve disputes between worker and employer/recruiter (but from the perspective of our own laws and policies and as well those of Qatar's, NHRC comes in, in particular, when the case needs legal assistance or when the case is elevated to concerned qatari government agencies (CMA).

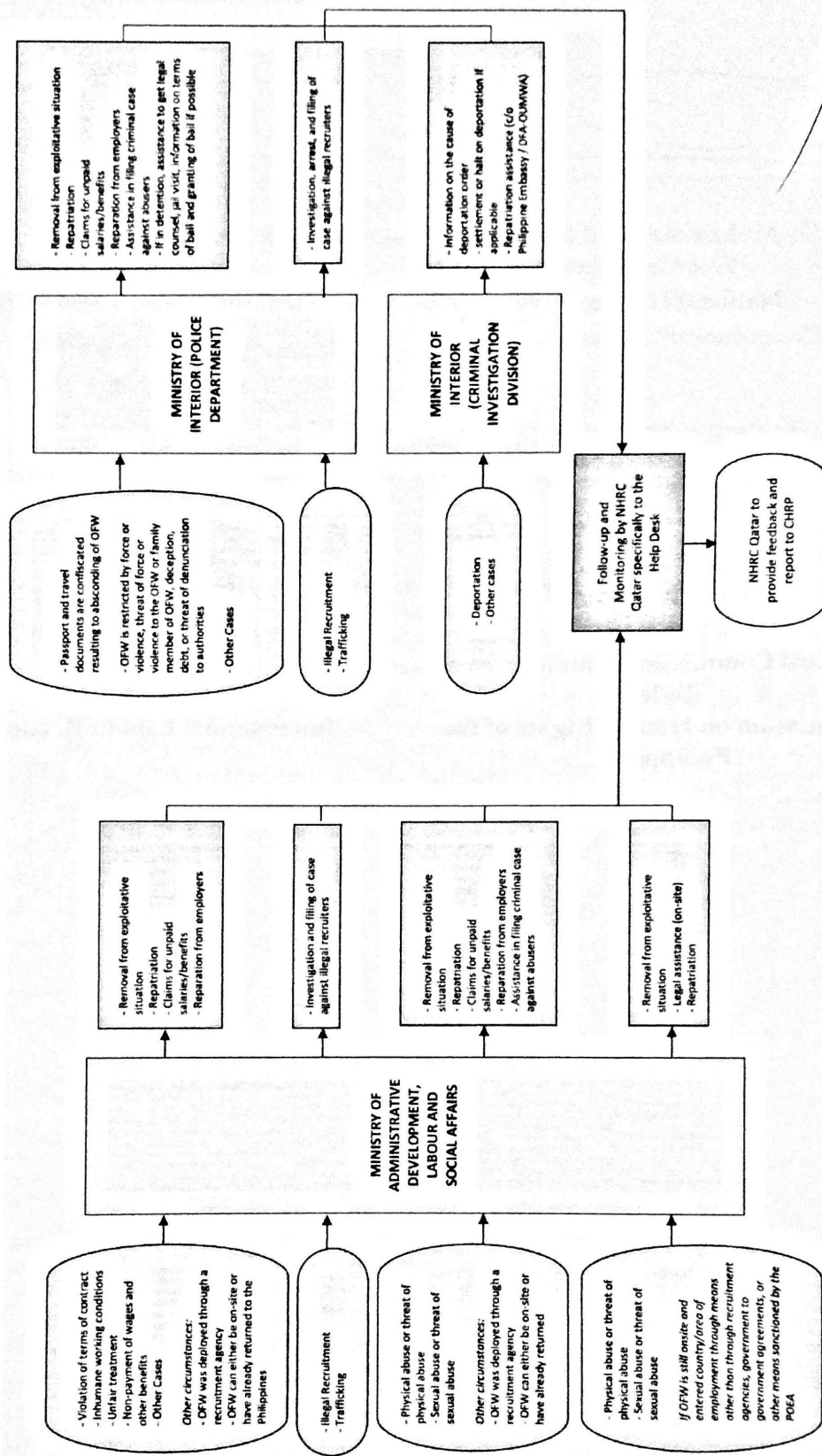


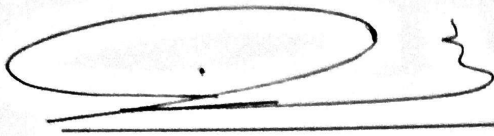
Flowchart 2: Proposed NHRC Qatar – CHRP Process Flow on Case Referral and Resolution of Cases¹



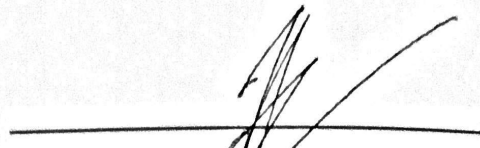


In referring the case to a government agency in Qatar, the NHRC Qatar and CHRP case officers shall be guided by the following:



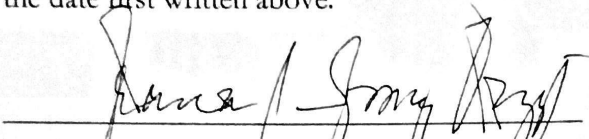


Dr. Mohammed Saif Al-Kuwari
Vice Chairperson
National Human Rights
Committee of the State of Qatar

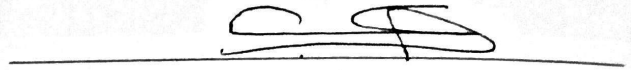


Atty. Jose Luis Martin C. Gascon
Chairperson
Commission on Human Rights of
the Philippines

IN WITNESS WHEREOF, the Parties have duly signed this Conforme Agreement as of the date first written above.



Ms. Karen S. Gomez-Dumpit
Co-Focal Commissioner for Migrants'
Rights
Commission on Human Rights of the
Philippines



Mr. Hamad Ali Afifa
Third Legal Researcher
International Labour Relations Department



aecid
Agencia Española
de Cooperación
Internacional
para el Desarrollo

