

NINTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)

MAR 30 1995 P 3:10

SENATE
S. No. 2068 RECEIVED BY: JMT

Introduced by Senator Blas F. Ople

EXPLANATORY NOTE

The Constitution expressly mandates the State to afford full protection to labor, both local and overseas, whether organized or unorganized.

In the case of overseas workers, a number of legislative and executive measures have been enacted and issued during the past twenty years since the overseas employment program was established with the objective to systematize and rationalize the said program and also to protect the interests and welfare of our overseas workers.

Nevertheless, it appears that the present system, structures and procedures that have been established to implement the various aspects of the overseas employment program of government have failed to address the needs and concerns of our overseas workers. Many documented cases have shown the mounting problems and difficulties suffered by hundreds of Filipino OCWs in foreign countries.

The tragedy of Flor Contemplacion, the domestic helper recently hanged in Singapore, has brought into sharper focus not only the deficiencies and loopholes in the existing structures designed to protect overseas workers, but also the apparent apathy, indifference and negligence shown by government officials and functionaries charged with protecting and promoting the welfare of these workers.

Specifically, the Contemplacion case has shown the glaring fact that it is the area of legal welfare of our overseas workers which our present system and structures have miserably failed to address. In compliance with the request made by this representation during the recent Senate joint hearing of the Committees on Foreign Relations and Labor and Employment on the Contemplacion case, the Department of Foreign Affairs submitted a list of Filipino OCWs detained abroad for various offenses. The list shows that there are 1,005 Philippine nationals detained abroad for various offenses, with the Kingdom of Saudi Arabia having the most number of Filipino detainees at 474. Singapore comes second with 108 and Tokyo, Japan is third with 99. There are 55 detained Filipinos in Malaysia, 51 in Kuwait, 27 in Hong Kong and 25 in Abu Dhabi.

On the other hand, there are 26 Filipinos facing the death penalty abroad of whom 23 are detained in Malaysia, 2 are in Beijing, China and one in Abu Dhabi.

This bill therefore seeks to provide the urgent response to address the above-cited tragic plight of our overseas workers by establishing a permanent government body to be called as the "Legal Welfare Commission for Overseas Workers" which shall be primarily responsible for devising and setting up the appropriate system and procedures that would provide immediate legal assistance and protection to Filipino overseas workers who are arrested, investigated or charged with criminal, civil or administrative offenses in the countries where they work, or who have themselves filed complaints against their foreign employers.

The Commission shall be composed of a Chairman and two members to be appointed by the President of the Philippines, with proven competence and with at least 10 years experience as a legal practitioner either in the government service or in private practice or both. The Commission shall be staffed by a pool of lawyers from the Departments of Justice, Labor and Employment, Foreign Affairs, Office of the Solicitor General and other agencies concerned as may be detailed therein upon authority issued by the Office of the President. The Commission may also appoint or hire additional lawyers and other technical and administrative personnel for the effective discharge of its functions, including the hiring of competent foreign lawyers to represent overseas workers facing charges abroad, provided that a Filipino lawyer shall always be assigned to collaborate with any foreign lawyer so hired to ensure that the rights and interests of the workers are adequately safeguarded.

Among the other important functions of the Commission shall be to:

- Investigate, on its own or on complaint of any overseas worker or any member of his family, any grievance or complaint against an official or employee of any department, agency or office of the Philippine government whether here or abroad;
- Establish close linkages and arrangements with the DOLE, DFA, POEA, OWWA and other government agencies concerned, as well as with non-governmental organizations and associations involved in helping overseas workers to ensure effective coordination and cooperation in the provision of legal assistance services to said workers;
- Keep and maintain a record and inventory of all cases and complaints filed by or against overseas workers abroad and regularly monitor the status and progress thereof and ensure that the workers are given adequate legal assistance and protection as provided under the proposed Act; and
- Recommend to Congress and to the President legislative and executive measures that the Commission deems necessary to protect the rights and promote the overall welfare of Filipino overseas workers.

This bill also seeks to establish a Legal Assistance Fund for OCWs to finance the legal services to be extended said workers such as the hiring of competent foreign lawyers to represent them, payment of bail bonds to secure the temporary release of workers who are under detention, payment of court fees and other litigation expenses. The said fund, which shall be administered by the Commission, shall be sourced from the Contingency Fund of the President, the Presidential Social Fund, and from the Welfare Fund for Overseas Workers administered by the OWWA.

The government has time and again claimed that our overseas workers are the new heroes considering their valuable contributions to the overall economic development of the country. Yet present government structures and systems have miserably failed to provide these new heroes the support, assistance and care they truly deserve. It is high time that we correct such injustice and neglect.

The early approval of this proposed measure is, therefore, earnestly requested.


BLAS F. OPLE
 Senator

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AN ACT
CREATING A LEGAL WELFARE COMMISSION FOR OVERSEAS WORKERS, DEFINING ITS POWERS AND FUNCTIONS, AND SETTING UP A LEGAL ASSISTANCE FUND AND FOR OTHER PURPOSES.

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembles:

SECTION 1. Declaration of Policy. - The Constitution expressly mandates that the State shall afford full protection to labor, local and overseas, organized and unorganized. Towards this end, the State is obliged to protect the interest and promote the welfare of Filipino overseas workers in recognition of their valuable contribution to the overall economic development of the country.

In implementation of the above constitutional mandate and declared policy, it is imperative that an effective mechanism be instituted to ensure that the rights and interests of Filipino workers who find themselves in legal predicament in the countries where they are working, are adequately protected and safeguarded.

SEC. 2. Creation of the COMMISSION. - To carry out the objectives of this Act, there is hereby created a body to be known as the "Legal Welfare Commission for Overseas Workers", hereinafter referred to as the "COMMISSION" to be composed of a Chairman and two Members to be appointed by the President of the Philippines who must be of proven competence and with at least ten years experience as a legal practitioner, either in the government service or in private practice of law or both.

SEC. 3. Term; Salaries; Privileges. - The Chairman and Members of the Commission shall be appointed for a term of six years without reappointment and shall receive and enjoy the same salaries and privileges as the Chairman and members of the Commission on Human Rights created under Executive Order No. 163, Series of 1987.

SEC. 4. Powers and Functions. - The Commission shall exercise the following powers and functions:

- (a) To devise and set up the appropriate legal system, structure and procedures that would provide immediate legal assistance and protection to Filipino overseas workers who are arrested, investigated or charged with civil, criminal or administrative offenses in the countries where they are working, or who have filed complaints against their foreign employers;
- (b) To investigate, on its own or on complaint by any Filipino overseas worker or any member of his family, any complaint or grievance said worker or member of his family has against an official or employee of any department, agency or office of the Philippine government, whether here or abroad;

- (c) To adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- (d) To establish close linkages and arrangements with the Department of Labor and Employment and Foreign Affairs, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration and other government agencies concerned, as well as with non-governmental organizations and associations of migrant workers, in order to ensure effective coordination and cooperation in the provision of legal assistance services to Filipino overseas workers;
- (e) To administer and manage the Legal Assistance Fund for Overseas Workers established under Section 6 hereof and authorize disbursements therefrom in accordance with the purposes for which the Fund was set up;
- (f) To keep and maintain a record and inventory of all cases and complaints filed by or against Filipino overseas workers abroad and regularly monitor the status and progress thereof and ensure that the workers are given adequate legal assistance and protection as provided under this Act;
- (g) To recommend to Congress and to the President legislative and administrative measures that the Commission deems necessary to protect the rights and promote the legal welfare of Filipino overseas workers;
- (h) To request the assistance of any department, bureau, office or agency of the government for the effective discharge of its functions and responsibilities; and
- (i) To exercise such other powers and functions as may be necessary to accomplish the objectives of this Act.

SEC. 5. Staff.- The Commission shall be assisted by a pool of lawyers from the Departments of Justice, Labor and Employment, and Foreign Affairs, the Office of Solicitor General, and other government agencies concerned as may be assigned and detailed therein upon authority issued by the Office of the President.

The Commission may also appoint or hire additional lawyers and other technical and administrative personnel for the effective discharge of its functions, including the hiring of competent foreign lawyers to represent Filipino overseas workers facing charges abroad, provided that a Filipino lawyer shall also be assigned to collaborate with any foreign lawyer so contracted to ensure that the rights of said workers are adequately safeguarded.

SEC. 6. Legal Assistance Fund.- There is hereby establish a Legal Assistance Fund for Overseas Workers, hereinafter referred to as the "FUND", in the amount of One Hundred Million Pesos (P100,000,000.00) to be constituted from the following sources:

- P 50 M from the Contingency Fund of the President
- P 30 M from the Presidential Social Fund
- P 20 M from the Welfare Fund for Overseas Workers established under LOI No. 537, as amended by P. D. Nos 1694 and 1809.

Any balances of existing funds which have been set aside by the government specifically as legal assistance or defense fund to help overseas workers shall, upon effectivity of this Act, be turned over to, and form part of, the FUND created under this Act.

SEC. 7. Uses of the FUND.- The FUND created under the preceding section shall be used exclusively to provide legal services to overseas workers in accordance with such guidelines and procedures as may be promulgated by the Commission. The expenditures to be charged against the FUND shall include the fees for the foreign lawyers to be hired by the Commission to represent overseas workers facing charges abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses.

SEC. 8. Appropriation.- In order to cover the expenses for the operations of the Commission for calendar year 1995, there is hereby appropriated the amount of Thirty Million Pesos (P30,000,000.00) to be charged against the Contingency Fund of the President or from any available item of appropriation in the budget for the Office of the President. For the succeeding years, the amounts necessary for the operations of the Commission shall be included in the budget of the Office of the President of the Philippines under the General Appropriations Act.

SEC. 9. Separability Clause. - The provisions of this Act are hereby declared to be separable, and in the event that any part, section or provision thereof is held invalid or unconstitutional, no other part or section or provision of this Act shall be affected thereby.

SEC. 10. Repealing Clause. - Any provisions of law, decree, executive order, rules or regulations which are in conflict with any provisions of this Act are hereby repealed or amended accordingly.

SEC. 11. Effectivity. - This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in a national newspaper of general circulation in the Philippines.

Approved.