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Ninth Congress of the Republic }
of the Philippines }
Third Regular Session }

S E N A T E

S. No. 2069

Introduced by Senator Ernesto F. Herrera

E X P L A N A T O R Y N O T E

This Bill seeks to define the principles and parameters of the overseas employment policy and program.

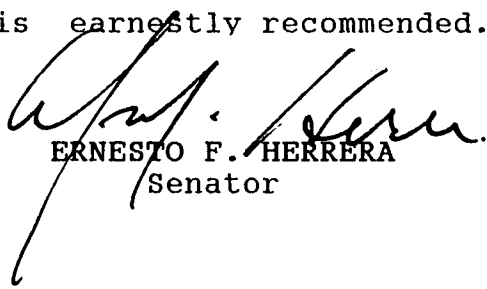
There is a need to set the limits and to clarify the bases of the overseas employment program in order to protect the worker and his family and to safeguard the dignity and sovereignty of the State.

There is also a need for a mandate to the Government to use the earnings from overseas employment to generate productive employment in the country as well as to ensure the reintegration of returning workers into the domestic economy but making full use of the skills and technologies that they acquired abroad.

While it is granted that overseas employment has resulted in economic gains, we should not lose sight of its social costs -- broken families, one-parent households, culture shock and uprootedness.

The overseas employment program cannot be phased out even in the medium term because we have not yet put in train the policies that will bring out full employment.

Approval of this Bill is earnestly recommended.


ERNESTO F. HERRERA
Senator

Ninth Congress of the Republic |
of the Philippines |
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MAR 31 1995
240 pm Cabj

S E N A T E

S. No. 2069

Introduced by Senator Ernesto F. Herrera

AN ACT
TO DECLARE THE GUIDING PRINCIPLES OF THE OVERSEAS EMPLOYMENT
PROGRAM AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND
PROMOTION OF THE WELFARE OF FILIPINO MIGRANT WORKERS

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

1 SECTION 1. Short Title. - This Act shall be known
2 and cited as the "Migrant Workers Act of 1995".

3 SEC. 2. Guiding Principles. -

4 a) Whether legal or illegal, documented or
5 undocumented, all Filipino migrant workers situated in any
6 part of the world are entitled to the protection and care of
7 the State by virtue of their Philippine citizenship. In
8 this regard, the State shall exercise its inherent and
9 supreme power and authority to extend all assistance and
10 charities and prevent any form of injury to all Filipino
11 citizens abroad especially to those who are unable to
12 protect themselves.

13 b) In the pursuit of an independent foreign policy and
14 while considering national sovereignty, territorial
15 integrity, national interest and the right to self-
16 determination paramount in its relations with other states,
17 the State shall, at all times, endeavor to uphold the

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1 dignity of its citizens, in general, and Filipino migrant
2 workers, in particular.

3 c) While recognizing the significant contribution of
4 Filipino migrant workers to the national economy through
5 their foreign exchange remittances, the State does not
6 promote overseas employment as a means to sustain economic
7 growth and achieve national development. The existence of
8 the overseas employment program rests solely on the
9 assurance that the dignity and fundamental human rights and
10 freedoms of the Filipino citizen shall not, at any time, be
11 compromised or violated. The State, therefore, shall
12 continuously create local employment opportunities and
13 promote the equitable distribution of wealth and the
14 benefits of development.

15 d) The country-team approach, as enunciated under
16 Executive Order No. 74, shall be the mode under which
17 Philippine Embassies or their personnel will operate in the
18 protection of the Filipino migrant workers as well as in the
19 promotion of their welfare. The protection of the Filipino
20 migrant workers and the promotion of their welfare, in
21 particular, and the protection of the dignity and
22 fundamental rights and freedoms of the Filipino citizen, in
23 general, shall be the primordial concern of the Philippine
24 Embassies that is superior to other diplomatic functions.

25 e) Deployment of Filipino workers abroad entails, on
26 the part of the State, a responsibility to ensure their
27 protection. Pursuant to this, the government shall deploy
28 only skilled Filipino workers and only to countries that

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1 guarantee their protection. Guarantee of protection to
2 Filipino migrant workers may be manifested by any of the
3 following:

4 i) The country has existing labor and social laws
5 protecting the rights of migrant workers; or

6 ii) The country is a signatory to multilateral
7 conventions, declarations or resolutions
8 relating to the protection of migrant labor
9 workers; or

10 iii) The country has concluded a bilateral
11 agreement or arrangement with the Government
12 protecting the rights of overseas Filipino
13 workers; or

14 iv) The country is taking positive, concrete
15 measures to protect the rights of migrant
16 workers.

17 f) In recognition of the important role of the
18 Filipino migrant workers in the Philippine economy and their
19 growing number, the State shall provide an atmosphere
20 conducive to their reintegration into the mainstream of
21 Philippine society. Towards this end, mechanisms for the
22 proper use and investment of their foreign exchange
23 remittances shall be afforded to the Filipino migrant
24 workers and their families.

25 g) Non-governmental organizations, duly recognized as
26 legitimate, are partners of the State in the protection of

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1 Filipino migrant workers and in the promotion of their
2 welfare. The State shall cooperate with them in a spirit
3 of trust and mutual respect.

4 h) The right of Filipino migrant workers to
5 participate in the democratic decision-making processes of
6 the State is recognized. The immediate institution of a
7 system of absentee voting by qualified Filipinos abroad is
8 imperative.

9 SEC. 3. Illegal Recruitment. - The appropriate
10 government agencies shall give utmost priority to the
11 hearing and resolution of all cases involving illegal
12 recruitment as defined under Article 38 of Presidential
13 Decree No. 442, as amended.

14 Towards this end, a mechanism for free legal assistance
15 for victims of illegal recruitment constituting economic
16 sabotage under Article 38 of Presidential Decree No. 442, as
17 amended, shall be established within the Department of Labor
18 and Employment including its regional offices. Such
19 mechanism must include coordination and cooperation with the
20 Department of Justice and non-government organizations and
21 other volunteer groups.

22 The provisions of Republic Act 6981 to the contrary
23 notwithstanding, any person who becomes a victim of illegal
24 recruitment constituting economic sabotage under Article 38
25 of Presidential Decree No. 442, as amended, shall be
26 automatically entitled to the Witness Protection Program
27 provided thereunder.

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1 SEC. 4. Services. - Pre-departure loan and family
 2 assistance loan grants, legal assistance, repatriation
 3 services, and medical and disability assistance shall be
 4 provided by the Overseas Workers Welfare Administration
 5 (OWWA) to Filipino migrant workers without delay and with
 6 minimum processing requirements. In order to further
 7 prevent unscrupulous, illegal recruiters from taking
 8 advantage of workers seeking employment abroad, the OWWA, in
 9 coordination with government financial institutions, shall
 10 institute financing schemes that will expand the grant of
 11 pre-departure loan and family assistance loan.

12 Should the cause of death of any Filipino migrant
 13 worker be not the result of his committing a crime but work-
 14 related or due to natural means, or by accident; or by
 15 force majeure, the Overseas Workers Welfare Administration
 16 (OWWA) shall be responsible for the immediate repatriation
 17 of his remains if the family or heirs do not have the means
 18 to repatriate and the employment contract of the deceased
 19 does not provide for repatriation.

20 Undocumented Filipino migrant workers needing
 21 repatriation shall also be assisted by the OWWA.

22 SEC. 5. Diplomatic Efforts and Bilateral Agreements.
 23 - The government must exert diplomatic efforts, in
 24 coordination with other countries with the same labor
 25 migration problem, to gain concessions in domestic
 26 (countries of employment) legislations which affect the
 27 situation of migrant workers. As far as possible, bilateral
 28 agreements with countries where majority of the Filipino

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1 contract workers are employed must be urgently concluded.
 2 The existence or non-existence of a bilateral agreement with
 3 countries of employment must be a primary consideration in
 4 the formulation of deployment strategies in the absence of a
 5 showing that such countries guarantee basic rights and
 6 fundamental freedoms.

7 SEC. 6. Establishment of a Crisis Center. - Within
 8 the premises and under the administrative jurisdiction of
 9 the Philippine Embassy in countries where there are large
 10 concentrations of Filipino migrant workers, there shall be
 11 established a Crisis Center with the following services:

- 12 a) Counselling and legal services;
- 13 b) Assistance in the procurement of medical and
 14 hospitalization services; and
- 15 c) Information, advisory, settlement, and
 16 community networking services.

17 The Crisis Center shall be staffed by the service
 18 attaches or officers who represent other Philippine
 19 government agencies abroad and, if available, volunteers
 20 from the Filipino Community settled in the host countries.
 21 In countries categorized as highly problematic by the
 22 Department of Foreign Affairs and the Department of Labor
 23 and Employment and where there is a concentration of
 24 Filipino migrant workers, the government must provide a
 25 lawyer and a social worker for the Crisis Center. The Labor
 26 Attache shall coordinate the operation of the Crisis Center

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1 and shall keep the Chief of Mission informed and updated on
2 all matters affecting it.

3 SEC. 7. Masterlist of Filipino Migrant Workers and
4 Inventory of Pending Legal Cases Involving Filipino Overseas
5 Contract Workers (OCWs) and Filipino OCWs Serving Prison
6 Terms. - In order to monitor closely the conditions of
7 Filipino migrant workers, for the purpose of extending
8 adequate assistance to them, the Department of Foreign
9 Affairs and the Department of Labor and Employment are
10 hereby mandated to establish a complete and accurate
11 masterlist of Filipino migrant workers and an inventory of
12 pending legal cases involving Filipino OCWs and Filipino
13 OCWs serving prison terms.

14 The inventory shall include but not be limited to the
15 following information:

- 16 a) name and other personal circumstances of the
17 OCWs;
- 18 b) country of deployment, job title, job site,
19 and inclusive dates of work contract;
- 20 c) name of employer and personal circumstances,
21 if available;
- 22 d) charge(s)/violation(s), status and other
23 incidental data (including length of the
24 prison term, if already convicted and serving
25 sentence); and
- 26 e) nature of assistance given by the government.

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1 **SEC. 8. Rights and Enforcement Mechanism Under**
2 **International and Regional Human Rights Systems.** - The
3 Department of Foreign Affairs is mandated to make an
4 assessment of rights and avenues of redress under
5 international and regional human rights systems that are
6 available to Filipino migrant workers who are victims of
7 abuse and violations and, as far as practicable, pursue the
8 same on behalf of the victims if it is legally impossible to
9 file individual complaints. If an individual complaints
10 machinery is available under international or regional
11 systems, the Department of Foreign Affairs shall inform the
12 Filipino migrant workers of the existence of such legal
13 options.

14 **SEC. 9. Appropriations.** - The amount necessary to
15 carry out the provisions of this Act shall be included in
16 the General Appropriations Act of the year following its
17 enactment into law and thereafter.

18 **SEC. 10. Implementing Guidelines.** - All concerned
19 departments and agencies, shall, within ninety (90) days
20 from the effectivity of this Act, promulgate the necessary
21 guidelines to put into effect the various purposes and
22 provisions for the full implementation of this Act.

23 **SEC. 11. Repealing Clause.** - All laws, decrees,
24 executive orders, rules and regulations, or parts
25 thereof, inconsistent with the provisions of this Act are
26 hereby repealed or modified accordingly.

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1 SEC. 12. Effectivity Clause. - This Act shall take
 2 effect after fifteen (15) days from its publication in the
 3 Official Gazette or in at least two (2) national
 4 newspapers. of general circulation, whichever comes
 5 earlier.

Approved,

[EFHI.95;SB105]
 CAV:RVD:jrm