

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

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S E N A T E

S. No. 2071

Introduced By Senators Edgardo Angara, Rodolfo Biazon,
Gloria Macapagal-Arroyo, Raul Roco and Francisco Tatad

EXPLANATORY NOTE

It is the obligation of the State to provide economic opportunities for its citizens. However, faced with the reality that the national economy cannot presently absorb the huge labor and manpower supply, the State recognizes the crucial role of the Filipino Overseas Contract Workers (OCWs) in national development. As Filipino citizens and invaluable contributors to Philippine economy, the OCWs must enjoy full protection under our laws.

The tales of Filipino OCWs abroad speak of the sacrifices and hardships encountered by every OCW. Behind the facade of monetary reward, our OCWs face the grim prospect of abuse, maltreatment and personal degradation abroad.

Sadly, succor from the government is hardly felt. The recent death in the gallows of Filipina maid Flor Contemplacion shows not only the harshness of the judicial system of a neighbor-country; more importantly, it exposed the helplessness of the government in extending assistance to a beleaguered OCW and the inadequacy of our institutional safeguards.


It is in this light that we realize the need to pass into law an Act creating the Department of Overseas Employment. As the lead government agency catering to the needs of Filipino OCWs, it shall be primarily responsible for the protection of their rights and the safeguard of their welfare and interest.


Statistics from the Department of Labor and Employment shows that from the initial 3,694 Filipino OCWs deployed abroad in 1969, the number swelled to half a million by 1983. By 1993, the Kingdom of Saudi Arabia alone has absorbed a total Filipino workforce of 2,012,800. Yearly, OCWs processed - both landbased and seabased - is in the average of 740,000.

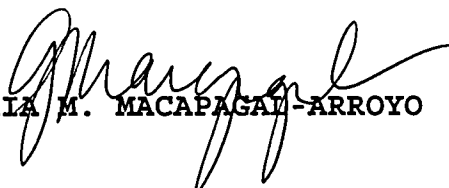
All over the world, the presence of Filipino workforce is felt.

We feel that given the magnitude of the number of Filipino OCWs deployed abroad and the complexity of their needs and problems, the establishment of a separate Department becomes a necessity. In this way, the government will have a more focused attention vis-a-vis the Filipino OCWs and impress upon our OCWs the serious and deliberate attention it gives to them.

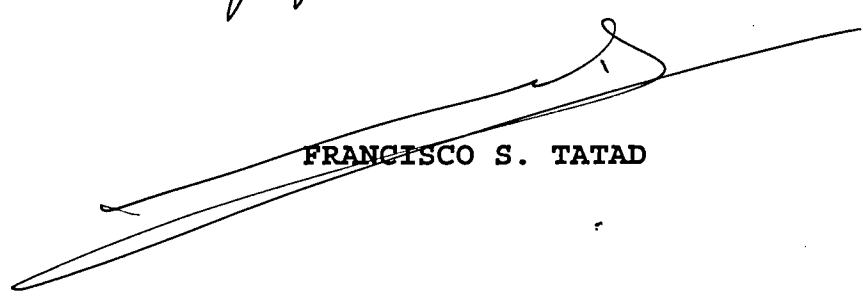
Approval of the bill is, thus, earnestly requested.


EDGARDO J. ANGARA


RODOLFO G. BIAZON


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RAUL S. ROCO


FRANCISCO S. TATAD

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SENATE RECEIVED BY: [Signature]
S.No. 2071

Introduced by Senators Edgardo Angara, Gloria
Macapagal-Arroyo, Rodolfo Biazon, Raul Roco and
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**AN ACT CREATING THE DEPARTMENT OF OVERSEAS EMPLOYMENT,
RATIONALIZING THE ORGANIZATION AND FUNCTIONS OF
GOVERNMENT AGENCIES RELATED TO OVERSEAS
EMPLOYMENT, AND FOR OTHER PURPOSES.**

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

CHAPTER 1

GENERAL PROVISIONS

SEC. 1. **Short Title.** - This Act shall be known as
the "Department of Overseas Employment Act."

SEC. 2. **Declaration of Policy.** - In the promotion
of social justice, it is the policy of the State to
create economic opportunitites for all Filipinos and
protect and enhance their human dignity. Towards this
end, the government shall take steps to provide job
opportunities for all Filipinos within the country.

However, in the meantime that the national economy
is unable to absorb the huge local labor and manpower
supply, the State shall support and recognize the
crucial role and important contributions of Filipino
overseas contract workers (hereafter, OCWs) in the task
of nation-building and national development.

Overseas employment shall receive full protection from the State. The government shall make periodic review of its overseas employment program with the end in view of balancing the nation's economic demands vis-a-vis the need to protect and support its workers overseas.

To enhance the capability of the State to provide protection to Filipino OCWs, the State shall institute mechanisms and safeguards and conduct diplomatic initiatives to protect them from abuses and unjust and unfair treatment in foreign lands.

Recognizing that the protection of Filipino OCWs starts within our own territory, the State shall pursue with vigilance and determination its fight against illegal recruitment activities and provide stiff penalties for the commission thereof.

For the benefit of returning Filipino OCWs, the State shall generate local job-integration programs and provide them incentives as well as government assistance.

SEC. 3. Department of Overseas Employment. - To carry out the above-declared policy, there is hereby created the Department of Overseas Employment, hereinafter referred to as the Department, which shall prepare, integrate, coordinate, review, implement, supervise and control all plans, programs, projects and activities of the Government relating to overseas employment of Filipinos.

SEC. 4. Powers and Functions. - The Department shall have the following powers and functions:

56

(a) Formulate policies for the adoption and implementation of comprehensive programs covering labor export and the protection of Filipino OCWs;

(b) Establish institutional mechanisms and linkages for the integration, rationalization and coordination of the activities and functions of various government agencies dealing with overseas employment;

(c) Establish and maintain a welfare system for OCWs;

(d) In coordination with the Department of Foreign Affairs, actively pursue diplomatic initiatives with the objective of entering into bilateral or multilateral agreements or conventions protecting Filipino OCWs;

(e) Serve as the primary government agency tasked with the protection and promotion of the interest of every citizen desiring to work overseas by securing for him the most equitable terms and conditions of overseas employment, and providing social and welfare services;

(f) Formulate, provide, implement and review social re-integration programs for returning Filipino OCWs;

(g) Formulate such rules and regulations as may be necessary to implement the objectives of this Act; and

(h) Exercise such other powers as may be necessary or incidental in the attainment of the objectives of this Act.

CHAPTER II

THE DEPARTMENT OF OVERSEAS EMPLOYMENT

SEC. 5. **Composition.** - The Department shall be composed of the Office of the Secretary and the Offices of the Undersecretaries and Assistant Secretaries, and the bureaus and services of the Department.

SEC. 6. **Office of the Secretary.** - The Office of the Secretary shall consist of the Secretary and his immediate staff.

SEC. 7. **The Secretary.** - The Secretary shall be appointed by the President, subject to confirmation by the Commission on Appointments.

No person who has a direct or indirect financial interest or control over any private recruitment agency shall be eligible for appointment as Secretary within two (2) years from his retirement, resignation, or separation therefrom.

The Secretary shall have the following functions:

(a) Advise the President on the promulgation of executive/administrative orders, other regulative issuances and legislative proposals on matters pertaining to overseas employment;

(b) Formulate guidelines, rules and regulations and other issuances necessary to carry out Department policies and programs.

(c) Evaluate the policy, plans, programs and projects accomplishment of the Department;

(d) Issue orders, directives, rules and regulations circulars and other issuances necessary to carry out overseas employment policies, plans, programs and projects;

(e) With respect to on-site labor and welfare stations abroad, assign, designate, rotate and recall welfare officers;

(f) Provide over-all direction, supervision and control over all offices under the Department to ensure effective and efficient implementation of its policies, plans, programs and projects;

(g) Coordinate with other government offices, labor organizations, employers associations and any other group to carry out the mandate of the Department;

(h) Prepare reports for the President, the Congress and the public;

(i) Delegate authority for the performance of any function to officers and employees of the Department;

(j) Exercise such other powers and functions as may be provided by law or assigned by the President.

SEC. 8. ***The Undersecretaries.*** - The Secretary shall be assisted by three (3) Undersecretaries who shall be appointed by the President upon the recommendation of the Secretary.

The Offices of the Undersecretaries shall consist of the Undersecretaries and their respective immediate staff.

SEC. 9. **Assistant Secretaries.** - The Secretary shall also be assisted by three (3) Assistant Secretaries, one (1) for operations, one (1) for policy and programs, and another for administrative services. The Assistant Secretaries shall be appointed by the President upon the recommendation of the Secretary.

They shall have the same powers and functions as those provided for in Section 8 Chapter 2 Title II of the Administrative Code of 1987.

SEC. 10. **Qualifications.** - No person shall be appointed Secretary, Undersecretary, or Assistant Secretary of the Department unless he is a citizen and resident of the Philippines, of good moral character, and of proven competence in any of the following fields: (a) economics, (b) public administration, (c) management; or (d) law.

SEC. 11. **Bureaus and Services.** - Subject to the power of the Secretary, with the approval of the President, to reorganize, restructure, and redefine the functions of the services and bureaus for the effective discharge of the powers and functions of the Department under this Act, the Department shall have the following services and bureaus:

(a) **Planning Service.** - The Planning Service shall provide the Department with efficient, effective and economical services relating to programming, project development and evaluation, and the development and implementation of a management information system;

(b) **Administrative Service.** - The Administrative

Service shall provide the Department with efficient, effective and economical services relating to records, management, supplies, equipment, collections, disbursements, building administration and maintenance, security and custodial work;

(c) **Human Resource Development Service.** - The Human Resource Development Service shall provide the Department with a program and corresponding projects that shall make available training, education and development opportunities needed to upgrade the levels of competence and productivity of Department managers and personnel. It shall absorb the powers and functions of the Administrative Service in relation to the development and administration of personnel programs including selection and placement, development, performance evaluation, employee relations and welfare;

(d) **Financial Management Service.** - The Financial and Management Service shall be responsible for providing the Department with efficient, effective and economical services relating to budgetary, financial, management improvement and internal control matters;

(e) **Legal Service.** - The Legal Service shall provide legal advice and service to Department officers and employees; prepare informative or clarificatory opinions on labor laws, rules and regulations for uniform interpretation thereof;

answer legal queries from the public; assist the Office of the Solicitor General in suits involving the Department or its officers or employees or act as their principal counsel in all actions taken in their official capacity or other causes before judicial or administrative bodies;

(f) **International Labor Affairs Service.** - The International Labor Affairs Service shall be responsible for monitoring the observance and implementation of all obligations, courtesies, and facilities required by international labor affairs, particularly the International Labor Organization, the Conference of Asian-Pacific Labor Ministries, the Association of Southeast Asian Nations Labor Ministers Meeting, and related international labor standards and agreements reached in various international labor fora, treaties, and other multilateral, bilateral or multi-bilateral agreements in the area of labor and employment; provide staff support and policy guidelines to the Secretary in the supervision, monitoring and reporting of the activities of the Philippine overseas labor officers assigned in different countries; serve as the instrumentality of the Department for technical cooperation, programs and activities with other countries and international institutions;

(g) **Information and Publications Service.** - The Information and Publications Service shall be responsible for rapport and understanding between the Department and the public through the

development of public relations programs and the dissemination of accurate and updated information on labor and employment by means of publications and media coverages of special events and related matters on the Department's policies, plans, programs and projects; likewise, it shall be responsible for providing answers to queries from the Department regarding the Department's policies, rules, regulations, programs, activities and services.

(h) **Recruitment and Placement Bureau** - The Bureau shall be in charge of all placements of Filipino OCWs abroad, including the documentation of every OCW. It shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system.

The placement program shall include mechanisms for the reintegration into the Philippine society of the OCWs upon their return. For this purpose, the Bureau shall:

(1) Coordinate with appropriate private and government agencies in the promotion, development, re-placement and the full utilization of the potentials of the returning OCWs;

(2) Institute, in cooperation with other government agencies concerned, a computer-based information system on returning skilled and semi-skilled Filipino OCWs which shall be

accessible to all local recruitment agencies and employers, both public and private;

(3) Provide a computer-based information system on available jobs/ job opportunities to returning OCWs; and

(4) Provide periodic study and assessment of job opportunities for returning Filipino OCWs.

(i) **Overseas Workers' Welfare Bureau.** - The Bureau shall be responsible for the protection of rights and provision of assistance to Filipino OCWs. It shall provide them social and welfare services including insurance coverage, social work assistance, legal assistance, cultural services, remittance services, repatriation and medical needs. The grant of these assistance shall be governed by the rules and regulations to be issued by the Department upon the recommendation of the Bureau.

(j) **Overseas Monitoring Bureau.** - The Bureau shall be composed of two sections, viz., the Statistics and Research Division and the Referral Division.

[1] **The Statistics and Research Division** shall adopt a centralized and comprehensive database system for Filipino OCWs. For this purpose, every departing OCW shall be issued an identification number for the easy retrieval of his file. The file shall contain

the following:

- [a] personal circumstances including family background, educational and employment history, medical record, provincial and city addresses;
- [b] country of destination, details of the contract of employment, names and addresses of both the foreign employer and local recruiter/agent;
- [c] other relevant data.

The Division shall likewise be responsible for the collation of all data concerning Filipino OCWs coming from the different Philippine diplomatic posts abroad and the preparation of the corresponding report. The report shall include, but not be limited to the following information:

- [a] Masterlists of Filipino OCWs by country/state of destination;
- [b] Masterlists of departing and arriving Filipino OCWs;
- [c] Statistical profile on Filipino OCWs;
- [d] Blacklisted foreign agents/employers;
- [e] Programs and services for various clientele; and
- [g] Lists of overseas posts which may render assistance to Filipino nationals.

[2] **Referral Division.** - It shall be

6

responsible for the study, referral and appropriate handling of all cases and reports of problems coming from the Overseas Resource Bureau as hereunder provided.

(k) **Overseas Resources Bureau.** - An Overseas Resources Bureau shall be established in the Department. The Bureau shall be a source of the following services:

- (1) Program to promote social integration and adjustment such as post-arrival orientation, settlement, advisory services, community networking and activities for social interaction;
- (2) Counselling and legal services;
- (3) Training and skills upgrading;
- (4) Information and education services or programs;
- (5) Welfare assistance including medical service;
- (6) Orientation programs for returning OCWs;
- (7) Monitoring of daily situations, circumstances and activities affecting OCWs.
- (8) Coordinate the functions of the Overseas Welfare Attaches.

SEC. 12. **Overseas Welfare Attache.** - To carry out the mandates of the Bureau under Section 11 hereof, an Overseas Welfare Attache (hereafter, Attache) shall be assigned by the Department in diplomatic posts abroad.

The Attache shall attend primarily to the legal

64

and medical concerns of the OCWs.

With respect to his legal-related functions, he shall:

(a) Monitor all cases of police arrests, detention, court hearings and other legal problems affecting the Filipino OCWs;

(b) Coordinate with the Consul General in all cases of incarceration of Filipino OCWs for purposes of legal assistance, and consultation and visitation rights over the detained Filipino worker;

(c) Refer cases involving any Filipino OCW to the proper agencies or authorities of the host country;

(d) Apprise the Bureau of the legal problem of a particular OCW. Likewise, the Section Desk Officer shall furnish the home unit of his recommendations with respect to actual cases.

With respect to his medical-related functions, he shall:

(a) Arrange and facilitate medical assistance to distressed OCW. Assistance could take the form of facilitating the admission of the worker in appropriate medical units or hospitals and the provision of professional medical service and medications.

(b) Monitor the confinement of any

Filipino in any medical institution in the host country and respond appropriately to any report of Filipino admission in such institution.

(c) Regularly provide the Bureau reports on the hospital confinements of Filipino OCWs, especially referring to medical cases of serious nature.

To ensure a continuous network and coordinative mechanism at the home office, the Bureau shall operate on a twenty-four hour basis.

MISCELLANEOUS PROVISIONS

SEC. 13. **Report to Congress.** - The Department shall submit to the Philippine Congress a semi-annual report of Philippine foreign posts located in countries hosting Filipino OCWs. The report shall include, but not be limited, to the following information:

- (a) Working conditions of Filipino OCWs;
- (b) Problems encountered by Filipino OCWs including violations of their rights;
- (c) Initiative/actions taken by the Philippine foreign posts to address the problems of overseas Filipino workers;
- (d) Changes in labor laws and policies of host countries; and
- (e) Status of negotiations on bilateral labor agreements between the Philippines and the host country, if any.

SEC. 14. **Legal Representation.** - In areas where

68

there is a vast concentration of Filipino workers, as determined by the Department, the government shall hire on a regular retainer a sufficient number of lawyers who are authorized to practice law before the courts of the host country.

In all other areas, legal representation shall be secured on a case-to-case basis.

In urgent cases and in areas where there is no lawyer hired on a retainer basis, legal representation shall be immediately accorded a worker in legal trouble, with the professional fee temporarily charged to the operating budget of the embassy or consulate thereat, later to be reimbursed by an equivalent amount to be drawn against the funds of the Department.

SEC. 15. ***Country-Team Approach.*** - Under the Country-Team Approach, all officers, representatives and personnel of the Philippine government posted abroad regardless of their mother agencies shall, on a per country basis, act as one country-team with a mission under the leadership of the ambassador.

With respect to matters affecting Filipino OCWs, the ambassador shall receive and be guided by the policies, directions and instructions from the Department.

The ambassador and/or the Secretary of the Department may recommend to the Secretary of the Department of Foreign Affairs the recall of officers, representatives and personnel of the Philippine government posted abroad for acts inimical to the national interest such as, but not limited to, failure to provide the necessary services or employ such

65

measures to protect the rights of Filipino OCWs.

Upon receipt of the recommendation of the ambassador and/or Secretary of the Department, the Secretary of the Department of Foreign Affairs shall, in the case of officers, representatives and personnel of other departments, endorse such recommendation to the department secretary concerned for appropriate action.

In host countries where there are Philippine consulates, such consulates shall also constitute part of the country-team under the leadership of the ambassador.

SEC. 16. **Appropriations.** - Such sums as may be necessary for the initial implementation of this Act shall be taken from the current fiscal year appropriations of the Department of Labor and Employment and such amounts as the President of the Philippines may allocate from other resources in accordance with law. Thereafter, the amount needed for the operation and maintenance of the Department shall be included in the annual General Appropriations Act.

SEC. 17. **Transitory Provisions.** - The Philippine Overseas Employment Administration (POEA), the Overseas Workers Welfare Administration (OWWA) and the Overseas Development Board (ODB) are hereby abolished. The functions of the POEA and the ODB are transferred to the Recruitment and Placement Bureau. The Overseas Workers Welfare Bureau shall absorb the functions of the OWWA.

To prevent disruption in the delivery of public services pending the full implementation of the

Department's organizational structure and staffing pattern, all officials and employees of the abolished offices shall continue to exercise their duties and functions and receive their salaries and allowances until they shall have been given notice of change of duties and functions, and of being absorbed by the new offices.

The civil service laws, rules and regulations pertinent to the displacement of personnel affected by this Act shall be observed. The national government shall provide such amounts as may be necessary to pay the benefits accruing to displaced employees at the rate of one and one-fourth (1 1/4) month's salary for every year of service: Provided, That, if qualified for retirement under existing retirement laws, said employees may opt to retire and receive the benefits thereunder.

SEC. 18. **Repealing Clause.** - All laws, presidential decrees, executive orders, and rules and regulations, or parts thereof, inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 19. **Separability Clause.** - If, for any reason, any Section or provision of this Act is held unconstitutional or invalid, the other sections or provisions hereof shall not be affected thereby .

SEC. 20. **Effectivity Clause.** - This Act shall take effect after its complete publication in at least two (2) national newspapers of general circulation.

Approved.