



Republika ng Pilipinas
Komisyon ng Karapatang Pantao ng Pilipinas
(Commission on Human Rights of the Philippines)

“OFW Liberalization Act of 2007”

Comment from the Commission on Human Rights

The Commission on Human Rights expresses its strong reservation on, or opposition to, House Bill No. 387 which seeks to amend Republic Act No 8042.¹

House Bill No. 387 authored by Rep. Roilo Golez proposes that:

“(c) The State recognizes the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances. Hence, **the State shall promote overseas employment as a means to sustain economic growth and achieve national development.** The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State therefore, shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of the development.” [Emphasis supplied]

The proposed amendment, in no uncertain terms, **reverses** or is a direct deviation from the present provision of RA 8042 which provides that:

“(c) While recognizing the significant contribution of Filipino migrant workers to the national economy through their foreign exchange remittances, **the State does not promote overseas employment as a means to sustain economic growth and achieve national development.** The existence of the overseas employment program rests solely on the assurance that the dignity and fundamental human rights and freedoms of the Filipino citizens shall not, at any time, be compromised or violated. The State, therefore shall continuously create local employment opportunities and promote the equitable distribution of wealth and the benefits of development.” [Emphasis supplied]

The Commission lauds the Government efforts in promoting full employment and national economic growth. Likewise it recognizes that the

¹ Migrant Workers and Overseas Filipino Act of 1995

The Commission lauds the Government efforts in promoting full employment and national economic growth. Likewise it recognizes that the Government's strategy in sending migrant workers has shielded the country from being extensively affected by the present global financial crisis.

However, the Commission urges the Government to see this strategy not as a norm but rather a temporary manoeuvre brought by the exigencies of times. It must be applied with the consciousness towards continually creating local employment opportunities and providing every citizen access to local employment that can provide decent and dignified living.

The Commission has already expressed its concern over the current labor deployment policy of the Government during the review of the Philippine Compliance Report on the Convention on Migrant Workers (CMW)² before the UN Committee on Migrant Workers. (A copy of the Commission's submission to the UN Committee on Migrant Workers is hereto being respectfully attached for your reference and perusal.) In particular, the Commission is concerned with a Presidential issuance in December 2008, Administrative Order No. 247 (AO No. 247 of 2008) that aggressively promotes overseas employment. The Order directs the POEA to *refocus* its functions "**from regulation to full-blast market development efforts, the exploration of frontier, fertile job markets for Filipino expatriates.**"³ [Emphasis supplied]

The Commission believes that this 'policy-shift' poses unprecedented concerns for Filipino migrant workers. The sad reality is, their status as migrant workers, including the semi and unskilled workers, make them highly vulnerable to many forms of human rights violation. In the meantime, the mechanisms to safeguard their rights within and outside the country has remained weak. One only has to read the papers to learn about their stories of violation and exploitation and the failure of the State to protect them.

With the issuance of AO No. 247 of 2008, the Philippines is not only endangering the migrant workers, but worse, it is becoming instrumental in leading them towards that direction. Why then would the Government enact a law consistent with the Administrative Order that would institutionalize further this practice of endangering our Filipino citizens?

² Convention on the Protection of the Rights of all Migrant Workers and their Families

³ Section 1, AO 247

ru

DP-21

[Handwritten signatures]

The Commission is categorical in its support to the Government's goals to promote employment, generate necessary funds and strengthen its economic agenda. However, it also strongly adheres for the application of the indispensable component in achieving these goals. That is, to ensure that the migrant workers and their families continue to enjoy their rights and be protected from all kinds of abuse and violations. These are rights that they can claim against the State. These are responsibilities that the State cannot turn its back against.

The Convention (CMW) is explicit in establishing the standards for the states' obligations [both sending and receiving states], to wit:

"Article 64

"1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.

"2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 70

"States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity."

Hence, while the Commission submits to the wisdom of the legislature in defining the Philippines' labor deployment policy, we are resolute in our recommendation that as the government seeks gainful employment for our fellowmen abroad, proper safeguards must foremost be doubly sought and institutionalized in order that protection and promotion of the rights of our migrant workers and their families, consistent with the Convention (CMW), will be properly observed, respected and fulfilled. Until and unless proper safeguards are put in place, the sending of migrant workers liberally abroad must be done with extreme circumspection and caution.

u

JP. 87

[Handwritten signature]

[Handwritten signature]

Thus, it is respectfully recommended that the proposed House Bill No. 387 be revised so that it reflects better the standards of the CMW and other international human rights instruments. The Commission also recommends a review of RA 8042 in order to reflect the provisions of the Convention and translate into domestic law CMW and international standards for the promotion and protection of the rights of migrant workers and their families therein provided.

The Commission further recommends that the government, consistent with its declaration during the 2nd Global Forum on Migration and Development,⁴ continue to exert efforts to encourage other States to accede to the Convention. It is noted that of the 38 State Countries to the CMW, no receiving State has ratified the Convention.

We also recommend a review of existing bilateral labor agreements, taking into consideration the provisions of the Convention and the use of the human rights based approach as a guide, in order to ensure consistency with the Convention and responsiveness to the needs of Filipinos. A similar approach must be ensured so that the Convention will be consciously and intentionally incorporated in future executions of bilateral agreements with other States.

Our policymakers and lawmakers must always bear in mind not only the risks faced by the migrant workers but the social costs being paid by our 'bagong bayani' and our country in exchange for the monetary remittances gained. For every 'bagong bayani' we encourage to leave, it means a mother or a father who cannot be with her/his own children and spouse. For every dollar generated by a migrant worker it is also every moment s/he lost being with his/her loved ones. For the countless money generated, countless families are being separated by necessity, and countless Filipino children who grow up without the loving guidance and discipline of their parents. And for every migrant worker who embark on another country to work, s/he will always face the risks and vulnerabilities of being violated. This is what happens to our 'bagong bayani', this is what happens to our hero's sons and daughters, the future of our country.

Allow us to cite the response of Mr. Prasad Kariyawasam, UN Expert on CMW and Rapporteur for the Philippines, on the statement made by the

⁴ 2nd GFMD hosted in Manila last October 2008

re

DTA

[Handwritten signatures]

Philippine delegation during the CMW review that, *"We don't only give them (migrant workers) fish but we teach them how to fish."*

To this, the UN expert said,

"It is not only teaching them to fish but whether they are safe when fishing and get help when drowned."

Finally, the Commission seeks for a more sustainable and responsive economic policy and programs of government that will encourage a self-sufficient and an adequate economic environment that regards overseas employment really as a choice rather than a necessity.

As aptly stated by Ms. Myriam Poussi,⁵

"...the choice (of overseas employment) is often driven by desire for a better standard of living, if the (Philippine) government is providing a good environment for a better standard of living, people may not be leaving..."

Issued this 28th May 2009 at Quezon City, Philippines.

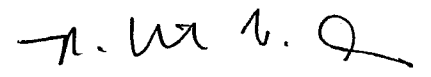


LEILA M. DE LIMA

Chairperson

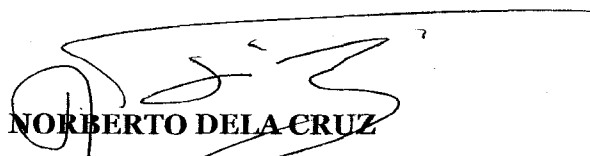
(ON OFFICIAL BUSINESS)
CECILIA RACHEL V. QUISUMBING

Commissioner



MA. VICTORIA V. CARDONA

Commissioner



NORBERTO DELA CRUZ

Commissioner



JOSE MANUEL S. MAMAUAG

Commissioner

⁵ UN Expert on Migrant Workers, during the Philippines review on CMW