

June 7, 1995

## **REPUBLIC ACT NO. 8042**

### **AN ACT TO INSTITUTE THE POLICIES OF OVERSEAS EMPLOYMENT AND ESTABLISH A HIGHER STANDARD OF PROTECTION AND PROMOTION OF THE WELFARE OF MIGRANT WORKERS, THEIR FAMILIES AND OVERSEAS FILIPINOS IN DISTRESS, AND FOR OTHER PURPOSES**

Sec. 1. Short Title. - This Act shall be known and cited as the "Migrant Workers and Overseas Filipinos Act of 1995."

Sec. 2. Declaration of Policies.

(a) In the pursuit of an independent foreign policy and while considering national sovereignty, territorial integrity, national interest and the right to self-determination paramount in its relations with other states, the State shall, at all times, uphold the dignity of its citizens whether in country or overseas, in general, and Filipino migrant workers, in particular.

(b) The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. Towards this end, the State shall provide adequate and timely social, economic and legal services to Filipino migrant workers.

(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 citizen 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.

(d) The State affirms the fundamental equality before the law of women and men and the significant role of women in nation-building. Recognizing the contribution of overseas migrant women workers and their particular vulnerabilities, the State shall apply gender sensitive criteria in the formulation and implementation of policies and programs affecting migrant workers and the composition of bodies tasked for the welfare of migrant workers.

(e) Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty. In this regard, it is imperative that an effective mechanism be instituted to ensure that the rights and interest of distressed overseas

Filipinos, in general, and Filipino migrant workers, in particular, documented or undocumented, are adequately protected and safeguarded.

(f) The right of Filipino migrant workers and all overseas Filipinos to participate in the democratic decision-making processes of the State and to be represented in institutions relevant to overseas employment is recognized and guaranteed.

(g) The State recognizes that the ultimate protection to all migrant workers is the possession of skills. Pursuant to this and as soon as practicable, the government shall deploy and/or allow the deployment only of skilled Filipino workers.

(h) Non-governmental organizations, duly recognized as legitimate, are partners of the State in the protection of Filipino migrant workers and in the promotion of their welfare. The State shall cooperate with them in a spirit of trust and mutual respect.

(i) Government fees and other administrative costs of recruitment, introduction, placement and assistance to migrant workers shall be rendered free without prejudice to the provision of Section 36 hereof.

Nonetheless, the deployment of Filipino overseas workers, whether land-based or sea-based, by local service contractors and manning agencies employing them shall be encouraged. Appropriate incentives may be extended to them.

Sec. 3. Definitions. - For purposes of this Act:

(a) "Migrant worker" refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a legal resident; to be used interchangeably with overseas Filipino worker.

(b) "Gender-sensitivity" shall mean cognizance of the inequalities and inequities prevalent in society between women and men and a commitment to address issues with concern for the respective interests of the sexes.

(c) "Overseas Filipinos" refers to dependents of migrant workers and other Filipino nationals abroad who are in distress as mentioned in Sections 24 and 26 of this Act.

## I. DEPLOYMENT

Sec. 4. Deployment of Migrant Workers. - The State shall deploy overseas Filipino workers only in countries where the rights of Filipino migrant workers are protected. The government recognizes any of the following as a guarantee on the part of the receiving country for the protection and the rights of overseas Filipino workers:

(a) It has existing labor and social laws protecting the rights of migrant workers;

(b) It is a signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers;

(c) It has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers; and

(d) It is taking positive, concrete measures to protect the rights of migrant workers.

Sec. 5. Termination or Ban on Deployment. - Notwithstanding the provisions of Section 4 hereof, the government, in pursuit of the national interest or when public welfare so requires, may, at any time, terminate or impose a ban on the deployment of migrant workers.

## II. ILLEGAL RECRUITMENT

Sec. 6. Definition. - For purposes of this Act, illegal recruitment shall mean any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a non-licensee or non-holder of authority contemplated under Article 13(f) of Presidential Decree No. 442, as amended, otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay any amount greater than that actually received by him as a loan or advance;

(b) To furnish or publish any false notice or information or document in relation to recruitment or employment;

(c) To give any false notice, testimony, information or document or commit any act of misrepresentation for the purpose of securing a license or authority under the Labor Code;

(d) To induce or attempt to induce a worker already employed to quit his employment in order to offer him another unless the transfer is designed to liberate a worker from oppressive terms and conditions of employment;

(e) To influence or attempt to influence any person or entity not to employ any worker who has not applied for employment through his agency;

(f) To engage in the recruitment or placement of workers in jobs harmful to public health or morality or to the dignity of the Republic of the Philippines;

(g) To obstruct or attempt to obstruct inspection by the Secretary of Labor and Employment or by his duly authorized representative;

(h) To fail to submit reports on the status of employment, placement vacancies, remittance of foreign exchange earnings, separation from jobs, departures and such other matters or information as may be required by the Secretary of Labor and Employment;

(i) To substitute or alter to the prejudice of the worker, employment contracts approved and verified by the Department of Labor and Employment from the time of actual signing thereof by the parties up to and including the period of the expiration of the same without the approval of the Department of Labor and Employment;

(j) For an officer or agent of a recruitment or placement agency to become an officer or member of the Board of any corporation engaged in travel agency or to be engaged directly or indirectly in the management of a travel agency;

(k) To withhold or deny travel documents from applicant workers before departure for monetary or financial considerations other than those authorized under the Labor Code and its implementing rules and regulations;

(l) Failure to actually deploy without valid reason as determined by the Department of Labor and Employment ; and

(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage.

Illegal recruitment is deemed committed by a syndicate if carried out by a group of three (3) or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

The persons criminally liable for the above offenses are the principals, accomplices and accessories. In case of juridical persons, the officers having control, management or direction of their business shall be liable.

#### Sec. 7. Penalties. -

(a) Any person found guilty of illegal recruitment shall suffer the penalty of imprisonment of not less than six (6) years and one (1) day but not more than twelve (12) years and a fine of not less than Two hundred thousand pesos (P200,000.00) nor more than Five hundred thousand pesos (P500,000.00).

(b) The penalty of life imprisonment and a fine of not less than Five hundred thousand pesos (P500,000.00) nor more than One million pesos (P1,000,000.00) shall be imposed if illegal recruitment constitutes economic sabotage as defined herein.

Provided, however, That the maximum penalty shall be imposed if the person illegally recruited is less than eighteen (18) years of age or committed by a non-licensee or non-holder of authority.

Sec. 8. Prohibition on Officials and Employees. - It shall be unlawful for any official or employee of the Department of Labor and Employment, the Philippine Overseas Employment Administration (POEA), or the Overseas Workers Welfare Administration (OWWA), or the Department of Foreign Affairs, or other government agencies involved in the implementation of this Act, or their relatives within the fourth civil degree of consanguinity or affinity, to engage, directly or indirectly in the business of recruiting migrant workers as defined in this Act. The penalties provided in the immediate preceding paragraph shall be imposed upon them.

Sec. 9. Venue. - A criminal action arising from illegal recruitment as defined herein shall be filed with the Regional Trial Court of the province or city where the offense was committed or where the offended party actually resides at the time of the commission of the offense: Provided, That the court where the criminal action is first filed shall acquire jurisdiction to the exclusion of other courts: Provided, however, That the aforesaid provisions shall also apply to those criminal actions that have already been filed in court at the time of the effectivity of this Act.

Sec. 10. Money Claims. - Notwithstanding any provision of law to the contrary, the Labor Arbiters of the National Labor Relations Commission (NLRC) shall have the original and exclusive jurisdiction to hear and decide, within ninety (90) calendar days after the filing of the complaint, the claims arising out of an employer-employee relationship or by virtue of any law or contract involving Filipino workers for overseas deployment including claims for actual, moral, exemplary and other forms of damages.

The liability of the principal/employer and the recruitment/placement agency for any and all claims under this section shall be joint and several. This provision shall be incorporated in the contract for overseas employment and shall be a condition precedent for its approval. The performance bond to be filed by the recruitment/placement agency, as provided by law, shall be answerable for all money claims or damages that may be awarded to the workers. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages.

Such liabilities shall continue during the entire period or duration of the employment contract and shall not be affected by any substitution, amendment or modification made locally or in a foreign country of the said contract.

Any compromise/amicable settlement or voluntary agreement on money claims inclusive of damages under this section shall be paid within four (4) months from the approval of the settlement by the appropriate authority.

In case of termination of overseas employment without just, valid or authorized cause as defined by law or contract, the worker shall be entitled to the full reimbursement of his placement fee with interest at twelve percent (12%) per annum, plus his salaries for the unexpired portion of

his employment contract or for three (3) months for every year of the unexpired term, whichever is less.

Noncompliance with the mandatory periods for resolutions of cases provided under this section shall subject the responsible officials to any or all of the following penalties:

(a) The salary of any such official who fails to render his decision or resolution within the prescribed period shall be, or caused to be, withheld until the said official complies therewith;

(b) Suspension for not more than ninety (90) days; or

(c) Dismissal from the service with disqualification to hold any appointive public office for five (5) years.

Provided, however, That the penalties herein provided shall be without prejudice to any liability which any such official may have incurred under other existing laws or rules and regulations as a consequence of violating the provisions of this paragraph.

#### Sec. 11. Mandatory Periods for Resolution of Illegal Recruitment

Cases. - The preliminary investigations of cases under this Act shall be terminated within a period of thirty (30) calendar days from the date of their filing. Where the preliminary investigation is conducted by a prosecution officer and a prima facie case is established, the corresponding information shall be filed in court within twenty-four (24) hours from the termination of the investigation. If the preliminary investigation is conducted by a judge and a prima facie case is found to exist, the corresponding information shall be filed by the proper prosecution officer within forty-eight (48) hours from the date of receipt of the records of the case.

Sec. 12. Prescriptive Periods. - Illegal recruitment cases under this Act shall prescribe in five (5) years: Provided, however, That illegal recruitment cases involving economic sabotage as defined herein shall prescribe in twenty (20) years.

Sec. 13. Free Legal Assistance; Preferential Entitlement Under the Witness Protection Program. - A mechanism for free legal assistance for victims of illegal recruitment shall be established within the Department of Labor and Employment including its regional offices. Such mechanism must include coordination and cooperation with the Department of Justice, the Integrated Bar of the Philippines, and other non-governmental organizations and volunteer groups.

The provisions of Republic Act No. 6981 to the contrary notwithstanding, any person who is a victim of illegal recruitment shall be entitled to the Witness Protection Program provided thereunder.

### III. SERVICES

Sec. 14. Travel Advisory/Information Dissemination. - To give utmost priority to the establishment of programs and services to prevent illegal recruitment, fraud and exploitation or

abuse of Filipino migrant workers, all embassies and consular offices, through the Philippine Overseas Employment Administration (POEA), shall issue travel advisories or disseminate information on labor and employment conditions, migration realities and other facts; and adherence of particular countries to international standards on human and workers' rights which will adequately prepare individuals into making informed and intelligent decisions about overseas employment. Such advisory or information shall be published in a newspaper of general circulation at least three (3) times in every quarter.

Sec. 15. Repatriation of Workers; Emergency Repatriation Fund. - The repatriation of the worker and the transport of his personal belongings shall be the primary responsibility of the agency which recruited or deployed the worker overseas. All costs attendant to repatriation shall be borne by or charged to the agency concerned and/or its principal. Likewise, the repatriation of remains and transport of the personal belongings of a deceased worker and all costs attendant thereto shall be borne by the principal and/or the local agency. However, in cases where the termination of employment is due solely to the fault of the worker, the principal/employer or agency shall not in any manner be responsible for the repatriation of the former and/or his belongings.

The Overseas Workers Welfare Administration (OWWA), in coordination with appropriate international agencies, shall undertake the repatriation of workers in cases of war, epidemic, disaster or calamities, natural or man-made, and other similar events without prejudice to reimbursement by the responsible principal or agency. However, in cases where the principal or recruitment agency cannot be identified, all costs attendant to repatriation shall be borne by the OWWA.

For this purpose, there is hereby created and established an emergency repatriation fund under the administration, control and supervision of the OWWA, initially to consist of One hundred million pesos (P100,000,000.00), which shall be taken from the existing fund controlled and administered by the OWWA. Thereafter, such fund shall be provided for in the General Appropriations Act from year to year: Provided, That the amount appropriated shall in no case be less than One hundred million pesos (P100,000,000.00), inclusive of outstanding balances.

Sec. 16. Mandatory Repatriation of Underage Migrant Workers. - Upon discovery or being informed of the presence of migrant workers whose actual ages fall below the minimum age requirement for overseas deployment, the responsible officers in the foreign service shall without delay repatriate said workers and advise the Department of Foreign Affairs through the fastest means of communication available of such discovery and other relevant information.

Sec. 17. Establishment of Re-placement and Monitoring Center. - A re-placement and monitoring center is hereby created in the Department of Labor and Employment for returning Filipino migrant workers which shall provide a mechanism for their reintegration into the Philippine society, serve as a promotion house for their local employment, and tap their skills and potentials for national development.

The Department of Labor and Employment, the Overseas Workers Welfare Administration, and the Philippine Overseas Employment Administration shall, within ninety (90)

days from the effectivity of this Act, formulate a program that would motivate migrant workers to plan for productive options such as entry into highly technical jobs or undertakings, livelihood and entrepreneurial development, better wage employment, and investment of savings.

For this purpose, the Technical Education and Skills Development Authority (TESDA), the Technology Livelihood Resource Center (TLRC), and other government agencies involved in training and livelihood development shall give priority to returnees who had been employed as domestic helpers and entertainers.

Sec. 18. Functions of the Re-placement and Monitoring Center. - The Center shall provide the following services:

- (a) Develop livelihood programs and projects for returning Filipino migrant workers in coordination with the private sector;
- (b) Coordinate with appropriate private and government agencies in the promotion, development, re-placement and the full utilization of their potentials;
- (c) Institute, in cooperation with other government agencies concerned, a computer-based information system on skilled Filipino migrant workers which shall be accessible to all local recruitment agencies and employers, both public and private;
- (d) Provide a periodic study and assessment of job opportunities for returning Filipino migrant workers; and
- (e) Develop and implement other appropriate programs to promote the welfare of returning Filipino migrant workers.

Sec. 19. Establishment of a Migrant Workers and other Overseas Filipinos Resource Center. - Within the premises and under the administrative jurisdiction of the Philippine Embassy in countries where there are large concentrations of Filipino migrant workers, there shall be established a Migrant Workers and Other Overseas Filipinos Resource Center with the following services:

- (a) Counselling and legal services;
- (b) Welfare assistance including the procurement of medical and hospitalization services;
- (c) Information, advisory and programs to promote social integration such as post-arrival orientation, settlement and community networking services and activities for social interaction;
- (d) Institute a scheme of registration of undocumented workers to bring them within the purview of this Act. For this purpose, the Center is enjoined to compel existing undocumented



workers to register with it within six (6) months from the effectivity of this Act, under pain of having his/her passport cancelled;

- (e) Human resource development, such as training and skills upgrading;
- (f) Gender sensitive program and activities to assist particular needs of women migrant workers;
- (g) Orientation program for returning worker and other migrants; and
- (h) Monitoring of daily situations, circumstances and activities affecting migrant workers and other overseas Filipinos.

The establishment and operations of the Center shall be a joint undertaking of the various government agencies. The Center shall be open for twenty-four (24) hours daily including Saturdays, Sundays and holidays, and shall be staffed by Foreign Service personnel, service attaches or officers who represent other Philippine government agencies abroad and, if available, individual volunteers and bona fide non-government organizations from the host countries. In countries categorized as highly problematic by the Department of Foreign Affairs and the Department of Labor and Employment and where there is a concentration of Filipino migrant workers, the government must provide a lawyer and a social worker for the Center. The Labor Attache shall coordinate the operation of the Center and shall keep the Chief of Mission informed and updated on all matters affecting it.

The Center shall have a counterpart 24-hour information and assistance center at the Department of Foreign Affairs to ensure a continuous network and coordinative mechanism at the home office.

Sec. 20. Establishment of a Shared Government Information System for Migration. - An inter-agency committee composed of the Department of Foreign Affairs and its attached agency, the Commission on Filipinos Overseas, the Department of Labor and Employment, the Philippine Overseas Employment Administration, the Overseas Workers Welfare Administration, the Department of Tourism, the Department of Justice, the Bureau of Immigration, the National Bureau of Investigation, and the National Statistics Office shall be established to implement a shared government information system for migration. The inter-agency committee shall initially make available to itself the information contained in existing data bases/files. The second phase shall involve linking of computer facilities in order to allow free flow data exchanges and sharing among concerned agencies.

The inter-agency committee shall convene to identify existing data bases which shall be declassified and shared among member agencies. These shared data bases shall initially include, but not be limited to, the following information:

- (a) Masterlists of Filipino migrant workers/overseas Filipinos classified according to occupation/job category, civil status, by country/state of destination including visa classification;

- (b) Inventory of pending legal cases involving Filipino migrant workers and other Filipino nationals, including those serving prison terms;
- (c) Masterlist of departing/arriving Filipinos;
- (d) Statistical profile on Filipino migrant workers/overseas Filipinos/tourists;
- (e) Blacklisted foreigners/undesirable aliens;
- (f) Basic data on legal systems, immigration policies, marriage laws and civil and criminal codes in receiving countries particularly those with large numbers of Filipinos;
- (g) List of labor and other human rights instruments where receiving countries are signatories;
- (h) A tracking system of past and present gender disaggregated cases involving male and female migrant workers; and
- (i) Listing of overseas posts which may render assistance to overseas Filipinos, in general, and migrant workers, in particular.

Sec. 21. Migrant Workers Loan Guarantee Fund. - In order to further prevent unscrupulous illegal recruiters from taking advantage of workers seeking employment abroad, the OWWA, in coordination with government financial institutions, shall institute financing schemes that will expand the grant of pre-departure loan and family assistance loan. For this purpose, a Migrant Workers Loan Guarantee Fund is hereby created and the revolving amount of One hundred million pesos (P100,000,000.00) from the OWWA is set aside as a guarantee fund in favor of participating government financial institutions.

Sec. 22. Rights and Enforcement Mechanism Under International and Regional Human Rights Systems. - The Department of Foreign Affairs is mandated to undertake the necessary initiative such as promotions, acceptance or adherence of countries receiving Filipino workers to multilateral convention, declaration or resolutions pertaining to the protection of migrant workers' rights. The Department of Foreign Affairs is also mandated to make an assessment of rights and avenues of redress under international and regional human rights systems that are available to Filipino migrant workers who are victims of abuse and violation and, as far as practicable and through the Legal Assistant for Migrant Workers Affairs created under this Act, pursue the same on behalf of the victim if it is legally impossible to file individual complaints. If a complaints machinery is available under international or regional systems, the Department of Foreign Affairs shall fully apprise the Filipino migrant workers of the existence and effectiveness of such legal options.

#### IV. GOVERNMENT AGENCIES

Sec. 23. Role of Government Agencies. - The following government agencies shall perform the following to promote the welfare and protect the rights of migrant workers and, as far as applicable, all overseas Filipinos:

(a) Department of Foreign Affairs - The Department, through its home office or foreign posts, shall take priority action or make representation with the foreign authority concerned to protect the rights of migrant workers and other overseas Filipinos and extend immediate assistance including the repatriation of distressed or beleaguered migrant workers and other overseas Filipinos;

(b) Department of Labor and Employment - The Department of Labor and Employment shall see to it that labor and social welfare laws in the foreign countries are fairly applied to migrant workers and whenever applicable, to other overseas Filipinos including the grant of legal assistance and the referral to proper medical centers or hospitals:

(b.1) Philippine Overseas Employment Administration - Subject to deregulation and phase-out as provided under Sections 29 and 30 herein, the Administration shall regulate private sector participation in the recruitment and overseas placement of workers by setting up a licensing and registration system. It shall also formulate and implement, in coordination with appropriate entities concerned, when necessary, a system for promoting and monitoring the overseas employment of Filipino workers taking into consideration their welfare and the domestic manpower requirements.

(b.2) Overseas Workers Welfare Administration - The Welfare officer or in his absence, the coordinating officer shall provide the Filipino migrant worker and his family all the assistance they may need in the enforcement of contractual obligations by agencies or entities and/or by their principals. In the performance of this function, he shall make representation and may call on the agencies or entities concerned to conferences or conciliation meetings for the purpose of settling the complaints or problems brought to his attention.

## V. THE LEGAL ASSISTANT FOR MIGRANT WORKERS AFFAIRS

Sec. 24. Legal Assistant for Migrant Workers Affairs. - There is hereby created the position of Legal Assistant for Migrant Workers Affairs under the Department of Foreign Affairs who shall be primarily responsible for the provision and overall coordination of all legal assistance services to be provided to Filipino migrant workers as well as overseas Filipinos in distress. He shall have the rank, salary and privileges equal to that of an undersecretary of said Department.

The said Legal Assistant for Migrant Workers Affairs, shall be appointed by the President and must be of proven competence in the field of law with at least ten (10) years of experience as a legal practitioner and must not have been a candidate to an elective office in the last local or national elections.

Among the functions and responsibilities of the aforesaid Legal Assistant are:

(a) To issue the guidelines, procedures and criteria for the provision of legal assistance services to Filipino migrant workers;

(b) To establish close linkages with the Department of Labor and Employment, the POEA, the OWWA and other government agencies concerned, as well as with non-governmental organizations assisting migrant workers, to ensure effective coordination and cooperation in the provision of legal assistance to migrant workers;

(c) To tap the assistance of reputable law firms and the Integrated Bar of the Philippines and other bar associations to complement the government's efforts to provide legal assistance to our migrant workers;

(d) To administer the legal assistance fund for migrant workers established under Section 25 thereof and to authorize disbursements therefrom in accordance with the purposes for which the fund was set up; and

(e) To keep and maintain the information system as provided in Section 20.

The Legal Assistant for Migrant Workers Affairs shall have authority to hire private lawyers, domestic or foreign, in order to assist him in the effective discharge of the above functions.

Sec. 25. Legal Assistance Fund. - There is hereby established a legal assistance fund for migrant workers, hereinafter referred to as the Legal Assistance Fund, in the amount of One hundred million pesos (P100,000,000.00) to be constituted from the following sources:

Fifty million pesos (P50,000,000.00) from the Contingency Fund of the President;

Thirty million pesos (P30,000,000.00) from the Presidential Social Fund; and

Twenty million pesos (P20,000,000.00) from the Welfare Fund for Overseas Workers established under Letter of Instruction No. 537, as amended by Presidential Decree 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 migrant workers shall, upon effectivity of this Act, be turned over to, and form part of, the Fund created under this Act.

Sec. 26. Uses of the Legal Assistance Fund. - The Legal Assistance Fund created under the preceding section shall be used exclusively to provide legal services to migrant workers and overseas Filipinos in distress in accordance with the guidelines, criteria and procedures promulgated in accordance with Section 24(a) hereof. The expenditures to be charged against the Fund shall include the fees for the foreign lawyers to be hired by the Legal Assistant for Migrant Workers Affairs to represent migrant workers facing charges abroad, bail bonds to secure the temporary release of workers under detention, court fees and charges and other litigation expenses.

## VI. COUNTRY-TEAM APPROACH

Sec. 27. Priority Concerns of Philippine Foreign Service Posts. - The country-team approach, as enunciated under Executive Order No. 74, series of 1993, shall be the mode under which Philippine embassies or their personnel will operate in the protection of the Filipino migrant workers as well as in the promotion of their welfare. The protection of the Filipino migrant workers and the promotion of their welfare, in particular, and the protection of the dignity and fundamental rights and freedoms of the Filipino citizen abroad, in general, shall be the highest priority concerns of the Secretary of Foreign Affairs and the Philippine Foreign Service Posts.

Sec. 28. 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. In this regard the ambassador 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 to protect the rights of overseas Filipinos.

Upon receipt of the recommendation of the ambassador, 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. Pending investigation by an appropriate body in the Philippines, the person recommended for recall may be placed under preventive suspension by the ambassador.

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

In the implementation of the country-team approach, visiting Philippine delegations shall be provided full support and information.

## VII. DEREGULATION AND PHASE-OUT

Sec. 29. Comprehensive Deregulation Plan on Recruitment Activities. - Pursuant to a progressive policy of deregulation whereby the migration of workers becomes strictly a matter between the worker and his foreign employer, the DOLE, within one (1) year from the effectivity of this Act, is hereby mandated to formulate a five-year comprehensive deregulation plan on recruitment activities taking into account labor market trends, economic conditions of the country and emerging circumstances which may affect the welfare of migrant workers.

Sec. 30. Gradual Phase-out of Regulatory Functions. - Within a period of five (5) years from the effectivity of this Act, the DOLE shall phase-out the regulatory functions of the POEA pursuant to the objectives of deregulation.

## VIII. PROFESSIONAL AND OTHER HIGHLY-SKILLED

### FILIPINOS ABROAD

Sec. 31. Incentives to Professionals and Other Highly-Skilled Filipinos Abroad. - Pursuant to the objective of encouraging professionals and other highly-skilled Filipinos abroad especially in the field of science and technology to participate in, and contribute to national development, the government shall provide proper and adequate incentives and programs so as to secure their services in priority development areas of the public and private sectors.

## IX. MISCELLANEOUS PROVISIONS

Sec. 32. POEA and OWWA Board; Additional Memberships. - Notwithstanding any provision of law to the contrary, the respective Boards of the POEA and the OWWA shall, in addition to their present composition, have three (3) members each who shall come from the women, sea-based and land-based sectors respectively, to be appointed by the President in the same manner as the other members.

Sec. 33. Report to Congress. - In order to inform the Philippine Congress on the implementation of the policy enunciated in Section 4 hereof, the Department of Foreign Affairs and the Department of Labor and Employment shall submit to the said body a semi-annual report of Philippine foreign posts located in countries hosting Filipino migrant workers. The report shall include, but shall not be limited to, the following information:

- (a) Masterlist of Filipino migrant workers, and inventory of pending legal cases involving them and other Filipino nationals including those serving prison terms;
- (b) Working conditions of Filipino migrant workers;
- (c) Problems encountered by the migrant workers, specifically violations of their rights;
- (d) Initiatives/actions taken by the Philippine foreign posts to address the problems of Filipino migrant workers;
- (e) Changes in the laws and policies of host countries; and
- (f) Status of negotiations on bilateral labor agreements between the Philippines and the host country.

Any officer of the government who fails to report as stated in the preceding section shall be subject to administrative penalty.

Sec. 34. Representation in Congress. - Pursuant to Section 5(2), Article VI of the Constitution and in line with the objective of empowering overseas Filipinos to participate in the policy making process to address Filipino migrant concerns, two (2) sectoral representatives for migrant workers in the House of Representatives shall be appointed by the President from the ranks of migrant workers: Provided, That at least one (1) of the two (2) sectoral representatives shall come from the women migrant workers sector: Provided, further, That all nominees must have at least two (2) years experience as a migrant worker.

Sec. 35. Exemption from Travel Tax and Airport Fee. - All laws to the contrary notwithstanding, the migrant worker shall be exempt from the payment of travel tax and airport fee upon proper showing of proof of entitlement by the POEA.

Sec. 36. Non-increase of Fees; Abolition of Repatriation Bond. - Upon approval of this Act, all fees being charged by any government office on migrant workers shall remain at their present levels and the repatriation bond shall be abolished.

Sec. 37. The Congressional Migrant Workers Scholarship Fund. - There is hereby created a Congressional Migrant Workers Scholarship Fund which shall benefit deserving migrant workers and/or their immediate descendants below twenty-one (21) years of age who intend to pursue courses or training primarily in the field of science and technology. The initial seed fund of Two hundred million pesos (P200,000,000.00) shall be constituted from the following sources:

(a) Fifty million pesos (P50,000,000.00) from the unexpended Countrywide Development Fund for 1995 in equal sharing by all Members of Congress; and

(b) The remaining One hundred fifty million pesos (P150,000,000.00) shall be funded from the proceeds of Lotto draws. aisa dc

The Congressional Migrant Workers Scholarship Fund as herein created shall be administered by the DOLE in coordination with the Department of Science and Technology (DOST). To carry out the objectives of this section, the DOLE and the DOST shall formulate the necessary rules and regulations.

Sec. 38. Appropriation and Other Sources of Funding. - The amount necessary to carry out the provisions of this Act shall be provided for in the General Appropriations Act of the year following its enactment into law and thereafter.

Sec. 39. Migrant Workers Day. - The day of signing by the President of this Act shall be designated as the Migrant Workers Day and shall henceforth be commemorated as such annually.

Sec. 40. Implementing Rules and Regulations. - The departments and agencies charged with carrying out the provisions of this Act shall, within ninety (90) days after the effectivity of this Act, formulate the necessary rules and regulations for its effective implementation. cdtai

Sec. 41. Repealing Clause. - All laws, decrees, executive orders, rules and regulations, or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 42. 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. 43. Effectivity Clause. - This Act shall take effect after fifteen (15) days from its publication in the Official Gazette or in at least two (2) national newspapers of general circulation whichever comes earlier.

Approved: June 7, 1995