

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



SIXTEENTH CONGRESS
Second Regular Session

HOUSE BILL No. 5714

Introduced by **BAYAN MUNA Rep. NERI J. COLMENARES**

**AN ACT INCREASING THE AMOUNT AND EXPANDING THE USE OF THE
LEGAL ASSISTANCE FUND, AMENDING FOR THE PURPOSE SECTIONS 25
AND 26 OF REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS "THE
MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995", AS AMENDED**

EXPLANATORY NOTE

The case of Mary Jane Veloso, a 30-year old mother of two from Nueva Ecija, who was charged with smuggling of illegal drugs and sentenced to die in Indonesia, mirrors the tragedy of many overseas Filipino workers who, in seeking better job opportunities abroad, become victims of human and drug trafficking and other forms of exploitation.

Veloso is one of the 6,000 Filipinos who go abroad daily. The Overseas Filipino Workers (OFWs) have become the highest income generator for the country, whose personal remittances in 2014 set an all-time high for the Philippines at \$26.93 billion according to the Banko Sentral ng Pilipinas.

Yet, the contribution of OFWs to the country's economy does not seem to be reciprocated by the government's support and attention to their plight. Based on reports from Migrante International, many OFWs are subjected to different kinds of abuse or suffer inhumane conditions in the places they work. The lucky ones are able to come back home, but those unlucky may end up killed or locked up in jail, and also get to die if sentenced to death.

Based on reports and claims of Veloso's family, Veloso was not provided with timely and adequate government assistance. Despite their efforts and requests to the Philippine Department of Foreign Affairs (DFA) since 2010, Veloso was not provided with a lawyer or translator by the Philippine government since her interrogation by the Indonesian police until the end of the trial. It was only during the appeals stage that the Philippine embassy availed of the services of Indonesian law firm Rudyantho & Partners (R&P).

Philippine Embassies abroad claim that lack of funds makes it difficult for government to provide legal services to Filipinos abroad undergoing trial. Some members of Congress have

pressed for bigger budget for the legal assistance fund as a result of this claim, but the budget continues to allocate very little funds for OFWs.

Various laws have appropriated millions of pesos for legal assistance of OFWs like Veloso. The Migrant Workers' Act of 1995, as amended by RA 10022, provided for P100 Million legal assistance fund (LAF), which shall "be used exclusively to provide legal services to migrant workers and overseas Filipinos in distress..." which "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 or in filing cases against erring or abusive employers abroad, bail bonds to secure the temporary releases and other litigation expenses." Republic Act No. 10651 or the FY 2015 General Appropriations Act likewise provided P100 Million Legal Assistance Fund under the budget allotment for the DFA. The Omnibus Rules and Regulations Implementing R.A. No. 8042, as amended, however, seems to have limited its application by providing a specific set of instances wherein the Legal Assistance Fund may be accessed, namely (1) upon the absence of a *counsel de oficio* or court-appointed lawyer or, (2) at all instances, upon conviction and the penalty meted is life imprisonment or death.

With about 88 Filipinos facing death penalty abroad, mostly in China and Malaysia, according to the Department of Foreign Affairs (DFA), and at least 7,000 OFWs in jails abroad according to Migrante, there is a need to ensure that there is adequate fund for the Legal Assistance Fund and that this fund is actually used to assist our OFWs.

However, President Benigno Aquino III, in his Veto Message dated December 23, 2014, conditionally vetoed Special Provision Section 11 Legal Assistance Fund of the DFA: "the appropriations in this Act clearly suggest the lack of income sources to justify the creation of a special fund". This means that there will be fund allocation for the legal assistance of OFW unless somebody identifies a specific source of fund.

The bill aims to increase the allotment for legal assistance fund for migrant and overseas Filipino workers to at least P1 Billion pesos per year and to expand the uses of legal assistance fund to ensure that those languishing in jails, especially those in death rows, will be given a chance to avail of legal services from the start of trial. This amount will roughly cover more than 2,000¹ OFWs in jails abroad.

It is the government's responsibility to provide timely and adequate legal assistance to OFWs in distress. By passing this bill that will ensure that funds are readily available for the legal needs of our OFWs in distress, we can save more OFWs' lives.

Hence, support for this bill is earnestly sought.

Approved,



Rep. NERI J. COLMENARES
Bayan Muna Party-list

¹ Based on per case average of P450,000 in legal fees, according to Senate finance subcommittee chairperson Loren Legarda, <http://archive.sunstar.com.ph/manila/local-news/2014/11/26/binay-seeks-p100-m-increase-ofws-legal-assistance-fund-378692>, cited on April 29, 2015.

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

SECTION 1. Section 26 of Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995", as amended by R.A. No. 10022, is hereby amended to read as follows:

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 or in filing cases against erring or abusive employers abroad, bail bonds to secure the temporary releases and other litigation expenses;

PROVIDED, THAT THE LEGAL ASSISTANCE FUND SHALL AT ALL TIMES BE MADE AVAILABLE AT THE TIME OF THE ARREST OR CHARGING ALL THE WAY TO THE TRIAL PROPER AND AT ALL LEVELS OF APPEAL FOR ALL MIGRANT WORKERS FACING CHARGES ESPECIALLY THOSE CHARGED WITH PRESCRIBED PENALTY OF LIFE IMPRISONMENT OR DEATH;

Provided, That at the end of every year, the Department of Foreign Affairs shall include in its report to Congress, as provided for under Section 33 of this Act, the status of the Legal Assistance Fund, including the expenditures from the 4 said fund duly audited by the Commission on Audit (COA);

Provided, further, That the hiring of foreign legal counsels, when 6 circumstances warrant urgent action, shall be exempt from the coverage of 7 Republic Act No. 9184 or the Government Procurement Act."

SECTION 2. Section 25 of Republic Act No. 8042, otherwise known as the “Migrant Workers and Overseas Filipinos Act of 1995”, as amended by Republic Act No. 10022, is hereby amended to read as follows:

“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 (50,000,000.00) from the Contingency Fund of the President;

“Thirty million pesos (30,000,000.00) from the Presidential Social Fund;

“Twenty million pesos (20,000,000.00) from the Welfare Fund for Overseas Workers established under Letter of Instructions No. 537 as amended by Presidential Decree Nos. 1694 and 1809; and

“An amount appropriated in the annual General Appropriations Act (GAA) which shall not be less than **ONE BILLION PESOS (P1,000,000,000.00)** [Thirty million Pesos (30,000,000.00)] per year: *Provided, that* the balance of the Legal Assistance Fund (LAF) including the amount appropriated for the year shall not be less than one hundred million Pesos (P100,000,000.00): **PROVIDED, FURTHER, THAT THE PRESIDENT MAY INCREASE THE AMOUNT APPROPRIATED FOR LEGAL ASSISTANCE FUND, SHOULD THE FUND PROVE INADEQUATE TO COVER ALL OFWS FACING CHARGES:** *Provided, further, That* the fund shall be treated as a special fund in the National Treasury and its balance, including the amount appropriated in the GAA, which shall form part of the Fund, shall not revert to the General Fund.

“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.”

SECTION 3. Repealing Clause. - All laws, orders, issuances, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

SECTION 4. Effectivity Clause. - This Act shall take effect within fifteen (15) days after its publication in the *Official Gazette* or in at least two (2) newspapers of general circulation, whichever comes earlier.

Approved,