

Republic of the Philippines  
**HOUSE OF REPRESENTATIVES**  
Quezon City

**SEVENTEENTH CONGRESS**  
*First Regular Session*

**HOUSE BILL NO. 4073**



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*Introduced by* **HON. ROGELIO D. PACQUIAO**

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**EXPLANATORY NOTE**

The contribution of overseas Filipino workers (OFWs) to our society is beyond question. Their remittances play a crucial role in our economy. We owe to them our burgeoning middle class. They are risking their lives and sacrificing cherished moments with their families so they can provide them a better life.

Sadly, our government seems unable to keep its side of the bargain. Article XIII, Section 3 (1) of the 1987 Constitution provides that

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.

Yet it continues to be weak in terms of providing OFWs protection against the many problems they face. One such problem is inadequate legal support during criminal prosecution. Time and again, the nation is shocked with news of migrant workers being or about to be executed. The pain is aggravated when we realize that many of these unfortunate migrant workers are innocent and/or victims themselves. The recent case of Mary Jane Veloso (who is now on reprieve but still facing the threat of execution) makes us wonder if we have actually exhausted all possible means in order to save those who are or have been similarly situated.

Sections 25 and 26 of the Republic Act No. 8042 or the "Migrant Workers and Overseas Filipinos Act of 1995", as amended, provides that

Sec. 25. *Legal Assistance Fund.* There is hereby established a legal assistance fund for migrant workers, herein referred to as Legal Assistance fund, in the amount of One hundred million pesos (P100, 000, 000.00) xxx

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 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 said fund duly audited by the Commission on Audit (COA): *Provided, further*, That the hiring of foreign legal counsels, when circumstances warrant urgent action, shall be exempt from the coverage of Republic Act No. 9184 or the Government Procurement Act.

Yet the Omnibus Rules and Regulations of R.A. 8042 has limited the application of these Sections, providing that

Sec. 3. *Legal Assistance Fund.* The Legal Assistance Fund created under the Act shall be used exclusively to provide legal services for Migrant Workers and Overseas Filipinos in distress in accordance with approved guidelines, criteria and procedures of the DFA. It shall be used inter alia for the following specific purposes:

(a) In the absence of a counsel *de officio* or court-appointed lawyer, payment of attorney's fees to foreign lawyers for their services in representing migrant workers facing criminal and labor cases abroad, or in filing cases against erring or abusive employers abroad, provided, that no amount shall be disbursed for the appeal of cases except when the penalty meted is life imprisonment or death or under meritorious circumstances as determined by the Undersecretary for Migrant Workers Affairs; xxx

Therefore, under the current law, a) OFWs in distress have to depend on counsels *de officio* or court-appointed lawyers, which may not be able to provide adequate defense due to several factors, most importantly of which is the language barrier; and b) the fund is only accessible upon

conviction and the penalty meted is life imprisonment or death, thus, support from the moment of arrest up to the trial, which are very crucial times, is lacking.

This bill improves upon the bill filed by Senator Miriam Defensor-Santiago during the Sixteenth Congress of the Philippines which seeks to close the loopholes in the law. In this proposed amendment to the law, the legal assistance fund shall at all times be made available from the time of the arrest or charging all the way to the trial proper and at all levels of appeal for migrant workers facing charges with the prescribed penalty of life imprisonment or death. Also, after conviction and if the penalty meted has a maximum period of 12 years and above (corresponding to *reclusion temporal* in our jurisdiction), access to the fund is also made mandatory upon appeal. The reason is that 12 years of jailtime constitutes a very long and agonizing separation from one's family which the State shall endeavor to prevent. Finally, it is also clarified that notwithstanding the two preceding provisos, access to the fund shall also be granted in other instances when there are meritorious circumstances.

In view of the foregoing, the approval of this bill is earnestly sought.



ROGELIO D. PACQUIAO

CONGRESS OF THE PHILIPPINES )  
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HOUSE OF REPRESENTATIVES

HB. No. 4073

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BY REPRESENTATIVE ROGELIO D. PACQUIAO

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AN ACT EXPANDING THE USE OF THE LEGAL ASSISTANCE FUND,  
AMENDING FOR THE PURPOSE SECTION 26 OF REPUBLIC ACT NO.  
8042, OTHERWISE KNOWN AS “THE MIGRANT WORKERS AND  
OVERSEAS FILIPINOS ACT OF 1995”, AS AMENDED

*Be it enacted by the Senate and 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 Republic  
Act No. 10022, is hereby amended to read as follows:

“SECTION 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 FROM THE TIME OF THE ARREST OR CHARGING ALL THE WAY TO THE TRIAL PROPER AND AT ALL LEVELS OF APPEAL FOR MIGRANT WORKERS FACING CHARGES WITH THE PRESCRIBED PENALTY OF LIFE IMPRISONMENT OR DEATH;**

**PROVIDED, THAT ACCESS TO THE LEGAL ASSISTANCE FUND SHALL ALSO BE MADE AVAILABLE UPON CONVICTION AND IF THE PENALTY METED HAS A MAXIMUM PERIOD 12 YEARS AND ABOVE, ONCE THE ACCUSED DESIRES TO APPEAL. NOTWITHSTANDING THE TWO PRECEDING PROVISOS, ACCESS TO THE FUND SHALL ALSO BE GRANTED IN OTHER INSTANCES WHEN MERITORIOUS CIRCUMSTANCES ARE PRESENT;**

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 said fund duly audited by the Commission on Audit (COA);

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

**SECTION 2. *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 3. *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,