

Migrants Rights Groups and Trade Unions Say NO to the Proposed Compulsory Insurance Coverage for OFWs, YES to OFW Protection!
October 12, 2009

To the Honorable Members of the Bicameral Committee Conference to Amend RA 8042

Sen. Jinggoy Estrada
Sen. Gringo Honasan
Sen. Ramon Bong Revilla
Sen. Allan Peter Cayetano

Cong. Edcel Lagman
Cong. Rex Gatchalian
Cong. Luz Ilagan
Cong. Arthur Pinggoy
Cong. Jonathan De la Cruz

The proposal for a comprehensive insurance coverage for OFWs may be well-intentioned. It seeks to provide financial relief to the OFWs at every conceivable distressed situation that may befall him/her while working abroad – disablement, repatriation, death, even subsistence allowance while pursuing his/her case against her/his foreign employer abroad and a guaranteed minimum equivalent of a 3-month-salary money claim should he/she file claims at the NLRC against the agency that recruited him/her. Furthermore, the proposal says that it will be the agencies who will pay the required premium for the said insurance coverage. **What is more interesting is that various agencies are already doing this for sometime now for the workers they recruit.** The proposal seeks to legislate the practice and make it mandatory for all OFWs.

Again, we say this may be well intentioned but at this point in time, we say NO to the proposal because of the following reasons:

1. **Since the law must apply to all, definitely the proposal CANNOT be implemented to cover ALL OFWs at no cost to them because only 26.6% on the average of the total annual number of deployed OFWs are those with agencies. (see Tables 1 and 2 below).** The bigger number of land-based OFWs are rehires (Table 1) who renew their contracts on their own sans the agencies. Added to this are those recruited through the government placement and the name hires. It will be unconstitutional to impose on them the proposal for mandatory insurance if they are the ones who will pay for it. Moreover, the seabased workers including the vessels are already being enrolled under a comprehensive insurance coverage. We also take note of the provision of RA8042 Section 36 which says that “all fees being charged by any government office on migrant workers shall remain at their present levels...”

Table 1. OFW Deployment. 1999-2008.

Source: POEA annual statistics, 2003, 2004, 2005, 2006, 2007, 2008.

www.poea.gov.ph

Year	Total	Landbased	New Hires, (%)	Rehires, (%)	Seabased
1999	837,020	640,331	237,714 (37.12)	402,627 (62.87)	196,689
2000	841,628	643,304	253,418 (39.39)	389,886 (60.61)	198,324
2001	866,590	661,639	271,085 (40.97)	390,554 (59.03)	204,951
2002	891,908	682,315	289,288 (42.40)	393,027 (57.60)	209,593
2003	867,969	651,938	279,565 (42.88)	372,373 (57.12)	216,031
2004	933,588	704,586	284,912 (40.44)	419,674 (59.56)	229,002
2005	988,615	740,632	289,981 (39.15)	450,651 (60.85)	247,983
2006	1,062,567	788,070	317,680 (40.31)	470,390 (59.67)	274,497
2007	1,077,632	811,070	313,260 (38.62)	497,810 (61.38)	266,553
2008	1,236,013	974,399	376,973 (38.69)	597,426 (61.31)	261,614

Table 2. New Hires, By Type of Hiring. 2004-2008.

Source: www.poea.gov.ph

	2004	2005	2006	2007	2008
GPB Hire	5469	9953	11346	8625	4102
Private Agency	265310 (28%)	259572 (26%)	279354 (26%)	272517 (25%)	347000 (28%)
Name Hire	14133	16560	21300	31210	25263

Note: GPB –Government Placement Board; Name Hire – direct hire, without agency

Our proposal then is to encourage the agencies to continue the practice of voluntary enrolment of the OFWs they recruit and to enjoin the rest of their colleagues in the private sector to do the same. It certainly benefits the workers as it protects the agencies from their liabilities and other obligations to the OFWs.

2. Looking beyond the merits of the proposal itself and the figures on Tables 1 and 2 above, we can see the bigger picture of the confusing state of Filipino labor migration, to wit:

a. The regulation policy is flawed. While the policy of government is to regulate recruitment and deployment through the government-placement branch (GPB) and the private recruitment agencies for the purpose of ensuring protection to OFWs, we take note of the fact that more than 60% of the total number OFWs deployed every year do not actually have agencies anymore (Table 1).

Is this good or bad? It is good if the employer is good and if we have effective and working bilateral labor arrangements with the destination governments, which we do not have. It is good if the job contracts are thoroughly verified, documented and monitored by the POLOS. It is good if the work contract is one that is at par with minimum prescribed standards for decent work and accepted and recognised under the laws of the Philippines and the destination States. It is good if destination States have clear policies to protect migrant workers, are committed to international human rights and labor standards. It is not good if the OFWs could not come home for good as yet and be reunited with their loved ones here because of the seemingly-perennial sorry state of the political-economy of the Philippines which prompted them to go overseas in the first place.

It also renders null and void Section 10's Joint and Solidary Liability provision of RA 8042. This goes true not only for the rehires but for those recruited and deployed through the GPB since the State is not covered by the JSL provision. To make the State, through the POEA, accountable for the workers it recruits, under the Rules and Regulations Governing Land based workers, Section 3 Part IV mandates the POEA to create a Foreign Employer's Guarantee Trust Fund for the purpose of covering the monetary claims arising from breach of contractual obligations. However, to date, to our knowledge, this is not implemented. POEA should be made accountable for the implementation or non-implementation of this provision.

b. In the case of OWWA, the rehires or balik manggagawa PAY the OWWA fee of US\$25 themselves, again, in violation of LOI 537 which clearly states that the US\$25 should NOT IN ANY WAY BE CHARGED from the OFWs. Apart from the issue of who pays the OWWA fee, the other fundamental issue on OWWA that was surfaced by the insurance proposal is the very relevance of OWWA as a welfare agency for OFWs. Except for the money claim liability of the agencies, the other provisions of the proposed insurance are all included in the programs and services of OWWA and the other government agencies including OUMWA and POEA and the overseas posts as provided for under RA 8042. OWWA has a P12B welfare fund. It is also the administrator of the Emergency repatriation fund; OUMWA has Assistance to Nationals Fund and Legal Assistance Fund; money is also earmarked for anti-trafficking victims.

Now is a good time to reiterate the demand for a public performance and financial audit of the OWWA and its funds. We recall that the OWWA Welfare Fund doubled from some P3B to P6B following the transfer of the Medicare programme and the amount of P530 M from the P3.5B Medicare funds under OWWA custody to Philhealth in 2005. Since then, and also due to the steady increase in the OFW deployment, the OWWA funds have rapidly increased. OWWA should have expanded its coverage and benefits to

the OFWs at no cost to them. Unfortunately, it took the opposite direction and further restricted OFW access to its funds and benefits under the OWWA Omnibus Policies which we also seriously questioned and rejected since September 2003. We reiterate now our call to Congress to enact ASAP an OWWA Charter that will provide clear policy guidelines on the administration and management of the OWWA with clear provisions for OFW participation in decision making.

c. Limited institutional capability of the State to guarantee protection for OFWs. At the rate labor migration is going, any and all efforts of government through its various agencies here and abroad to provide quality service to OFWs and their families will always not be enough. We have only 88 embassies and consulates and 37 POLOS serving 4.13 million OFWs, 3.69 million Filipino immigrants and permanent residents and close to a million undocumented or those in irregular status¹ spread out in more than 193 countries and destinations across the globe. Apart from looking after the welfare of our Filipinos overseas, our embassies and consulates perform other duties and functions as representative offices overseas and for the longest time, have not had an increase in personnel complement. Also, based on the Commission on Audit Study in 2008, the ratio of personnel overseas is one Labor Attaché to a minimum of 5,600 OFWs to a maximum of 100,000. In the April 2009 examination of the Philippine government as a State party to the UN Convention on the Protection of Migrant Workers and Members of Their Families, the UN Committee on Migrant Workers recommended that government “review its labour migration policy in order to give primary importance to human rights of migrant workers, in line with the State party’s own professed goal as set out in RA 8042”. It recommended that “follow-up procedures as well as clear measurable and time-bound targets in order to facilitate tracking of the implementaton” of the “multitudes of initiatives and programmes” for OFWs.²

Unless our leaders are able to promptly shift to and implement a more sustainable and people-centered economic recovery path, with the global crisis now and the devastating effect of the last typhoons and flashfloods, we anticipate that labor migration will continue to be the way of life for many Filipinos, no matter what. The least that government can do is provide them protection. For the last 3 decades of labor migration, it has failed to do so. **No to privatisation and outsourcing of the State duty to protect the OFWs and their families!##**

Initial list of SIGNATORIES:

Alliance of Progressive Labor
Apostleship of the Sea - Manila
Batis Aware
Batis Center for Women
Center for Migrant Advocacy
Center for Overseas Workers

1 www.poea.gov.ph. Stock estimates of Filipinos Overseas, December 2007.

2 Www.ohchr.org

Commission for Filipino Migrant Workers (CFMW), The Netherlands
Development Action for Women Network (DAWN)
Fernando Crisosto, Saudi Arabia
Filipino Community Services and Information Network-Hongkong
(FILCOMSIN-HK)
Filipino Domestic Workers Union - Hongkong
Focus on the Global South – Philippines Programme
Florencio Olemos, Sr.
Francisco Oca, OFW, Saudi Arabia
Geneva Forum for Philippine Concerns
Hsinchu Catholic Diocese Migrants & Immigrants Service Center (HMISC),
Hsinchu, Taiwan
Joseph Henry Bibera Espiritu, Patnubay.com, Saudi Arabia
Kabalikat ng OFW, Inc.- Luther Calderon, Secretary General
KAMPI (Luther Calderon, President)
Kanlungan Center for Women Foundation
KOOP Natin, The Netherlands
Marino
Migrant Forum in Asia (MFA)
MMOA
Mujeres, Zamboanga City
Peoples Partner for Development and Democracy (PPDD) -Anna Malindog
Philippine Alliance of Human Rights Advocates (PAHRA)
PS Link
Pusong Pinoy Association – Abuja, Nigeria
Rashid Fabricante, OFW, Saudi Arabia
RESPECT Network Europewide – a platform for the rights of migrant domestic workers
Ronnie Abeto, OFW in Khurais Saudi Arabia
Samahan ng Manggagawang Pilipino sa Belgium
Scalabrinian Lay Association Inc.
Trusted Migrants, The Netherlands
YMCA Philippines
.....

Contact Persons:

Ellene A. Sana, CMA, Telephone: 920 5003/ 09174481464
Aladin Diega, Kanlungan Center, Telephone: 9282384/ 09182257228
Josua Mata, Alliance of Progressive Labor, 09177942431
Victorina Baby Lloren, Batis Aware, Tel: 9207086/ 0919 2158163