

**4th Dr. Alfredo J. Ganapin Advocacy
Series 2006**

**Round Table Discussion
On Practical and Legal Remedies
To Address the Needs of Families
Abandoned by Overseas Filipino
Workers**



December 15, 2006
9:00 am - 12:00 noon
University Hotel
University of the Philippines
Diliman, Quezon City

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Executive Summary

The 4th and last AJG Advocacy Forum for 2006, *A Round Table Discussion on Social and Legal Remedies to Address the Needs of Families Abandoned by OFWs* was held last December 15, 2006 at the University Hotel, UP, Diliman, Quezon City.

The round table discussion (RTD), organized by the Center for Migrant Advocacy (CMA) and Friedrich Ebert Stiftung (FES), had thirty-three participants representing the Government's Executive and Legislative branches; the local government; NGOs on migrant concerns; OFW families, particularly wives who had been abandoned by their OFW spouses; and, the academe.

The RTD sought to:

1. Better understand and address the family abandonment issue *vis-a-vis* labor migration;
2. Know how the various migration-related Government agencies approach and address the problems;
3. Identify the gaps in existing laws, policies and practices *vis-a-vis* OFW family abandonment and financial support, and;

4. Come up with concrete and practical, social and legal remedies to family abandonment by OFWs, as well as with concrete support programs particular to abandoned women parents and spouses.

Ms. Ellene Sana, RTD moderator, in her backgrounder, noted the existence of laws specific to the family, women and children, adding that Family Courts are "part and parcel of the commitment to preserve the integrity and autonomy of the Filipino family." However, it is the Government's own "continued promotion of labor migration that negates its commitment and efforts to protect the family, the women and their children. Migration breaks apart Filipino families and members must endure prolonged separation from each other. Children of migrant parents grow up under the care of their grandparents and/or of their extended families. Migrant parents become absentee parents to their children, spending, at most, only a few months in a year with them." Thus, despite their noble intentions, current laws and policies "do not sufficiently respond to situations of migrant families."

Ms. Sana also noted cases where families left behind complain of irregular, inadequate and even total discontinuation of financial support from the OFW family-member, a common

reason being the founding of another family by the OFW family-member. Still, the abandoned families choose to pursue their cases, both for the children's sake and because of the abandoned spouse's inability to get a job, not for lack of skill or perseverance, but due to domestic and financial constraints.

The Round Table Discussion had two resource persons:

Attorney Farah G. Decano, Chairperson, Committee on Children, Women and Family Relations, *Sangguniang Panlungsod*¹, Dagupan City.

In her presentation, **Atty. Decano** pointed out that while *Republic Act (RA) 8042: Migrant Workers' Act*, recognizes the overseas Filipino workers as most significant contributors to the economic development of the country, the same law stipulates that the State does not promote overseas employment to sustain a genuine economic growth.

Recognizing the fact, however, that the Philippines cannot absorb all the workers locally, various laws are in place to protect

the overseas Filipino workers and their families, specifically:

In calling attention to *Article 22* of Presidential Decree 442 as amended (*The Labor Code of the Philippines*), providing for mandatory remittance as a basic economic protection to the families and dependents of OFWs, Atty. Decano cited problems and limitations in both its actual implementation by both the Overseas Worker Welfare Administration (OWWA) and the Philippine Overseas Employment Administration (POEA), as well in its actual observance.

Nevertheless, that there are specific support mechanisms embodied in the following laws:

- *RA 8042* - providing for the extension of loan assistance; family assistance loan for emergency purposes; scholarships for OFW dependents; social insurance, and; counseling and livelihood training programs for OFWs and their families.
- *RA 8972* - mandating, for the benefit of the solo parent, the generation of livelihood projects; provision of health benefits; scholarship and

¹ City Council

housing benefits, with liberal payment terms through the National Housing Authority (NHA); the conduct of counseling programs, and; entitlement to a seven-day parental leave.

For the abandoned spouse, Atty. Decano enumerated the various provisions of Executive Order Nos. 209 as amended (*Family Code of the Philippines*) and RA 9262 (*Anti-Violence Against Women and Their Children Act of 2004*) as the available legal remedies.

In conclusion, Atty. Decano urged attention on challenging questions relative to the acquisition of jurisdiction over the person of the OFW; absence of OFW properties from which the abandoned family may derive alternative support; availment, despite poor implementation, of legal benefits provided by various laws, and; extra-legal remedies available to an abandoned family who, otherwise, cannot afford the legal costs.

Attorney Henry S. Rojas, CMA Legal Counsel and Founding Member, Lawyers' League for Liberty (Libertas).

Addressing the migrant workers' families' limited access to justice as a consequence

of the payment of filing fees, litigation costs and the availability of legal assistance, particularly from the Public Attorneys' Office, Atty. Rojas proposed the study of extending legal and Government assistance both to families of migrant workers and to Filipino women abandoned by their foreign spouses, including their exemption from court fees.

He also proposed the:

1. Conduct of more study of administrative support mechanisms for non-judicial mechanisms;
2. Expansion of the conciliation and mediation processes, and;
3. Strengthening of socio-cultural values.

Atty. Rojas also discussed the limitations on the procedural aspect of judicial proceedings, such as acquiring jurisdiction, satisfying the requirements of due process and the almost impossible task of executing or enforcing the judgments of Philippine courts in foreign jurisdictions. As a policy recommendation, he proposed the study of including in bilateral agreements the establishment of mechanisms for the enforcement of court judgments or

mechanisms to implement provisions of support to the families left behind.

Finally, Atty. Rojas urged the audience to make continuing studies to explore the magnitude of the abandonment problems and use them as bases for future policy recommendations.

Responses

Participants from the various sectors shared their own views in response to the inputs, challenges and recommendations by the two resource persons.

Executive Branch

Mr. Mar Dumia, Executive Director, Office of the Undersecretary for Migrant Workers Affairs (OUMWA), explained OUMWA's mandate and programs.

Ms. Lucille Ronda, from the Commission on Filipinos Overseas (CFO), explained CFO's work, which includes regular counseling programs. She also admitted that Government agencies like CFO cannot address all the needs of Filipinos migrating to other countries.

Ms. Victoria Navida, from the Department of Social Work and Development (DSWD), mentioned their study on the social cost of

migration in Region 1. The study resulted in a protection and prevention module to be pilot-tested at the *Barangay*² levels. She also cited the absence of a multi-agency task to specifically address the social costs of migration.

Atty. Arnulfo Maminta, from the Bureau of Immigration (BI), said that the watch-list and the "hold-departure" orders issued by the Secretary of the Department of Justice are premised on a valid complaint filed in court. He proposed that focal persons should be identified in various Government agencies to address this issue.

Atty. Naty Roma from the National Labor Relations Commission (NLRC) said extra-legal remedies should include counseling.

Legislative Branch

Rep. Mayong Aguja, from the AKBAYAN Partylist, recommended the:

1. Establishment of a One-Stop Center for abandoned families, not necessarily a physical center, but with a clear inter-agency referral system;

² Smallest local Government political unit.

2. Deployment of more social workers in the posts abroad;
3. Involvement of Local Government Units (LGUs);
4. Harmonization of the national budget to reflect the One-Country-Team-Approach policy, and;
5. Conduct of public hearings by the House Committee on Overseas Workers Affairs on Article 22 of the Labor Code.

Migrant NGOs and Families

Kanlungan Center Paralegal Adviser Erwin Buhawan said the filing of a case should be a last resort as it is tedious and expensive.

CMA Board Member Mike Bolos cited some practical concerns in regard to the implementation of Article 22, particularly for domestic workers who, more often than not, receive low wages at irregular intervals but have to cope with stiff bank remittance charges.

Unlad Kabayan advocacy officer Ms. Bernice Roldan urged Government agencies to be creative and pro-active in addressing the problems of migrant workers and their families.

The abandoned wives of seafarers and land-based OFWs drew particular attention to their problems in locating and getting regular and substantial financial support from their husbands who have settled with and support other women.

In his closing remarks, Gus Cerdena, Programme Officer of Friedrich Ebert Stiftung, challenged everybody to pursue the advocacy work for families abandoned by OFWs.

Summary of Recommendations

The RTD participants and resource persons recommended the:

1. Study the possibility of including in bilateral agreements the establishment of mechanisms for both the:
 - a. enforcement of court judgments, and;
 - b. implementation of provisions for support to the families left behind by OFWs.
2. Study the feasibility of extending:
 - a. legal assistance to the families of migrant workers and their exemption from court fees;
 - b. legal assistance to Filipino women abandoned by their foreign spouses;
 - c. Government assistance in both respects.
3. Harmonization of the national budget to reflect the One-Country-Team Approach policy.

4. Deployment of more social workers in the posts abroad.
5. Establishment of a One-Stop Center for abandoned families - not necessarily a physical center, but one with a clear inter-agency referral system.
6. Establishment and strengthening of administrative support and other non-judicial mechanisms.
7. Expansion of conciliation and mediation processes and options.
8. For POEA, or other appropriate Government agencies, to:
 - a. study the conditions of the OFWs in terms of their salary ranges, per capita expenses of families left behind, and the quality of life in the country where they work *vis-a-vis* Article 22 of the Labor Code on mandatory remittance arrangements, and;
 - b. base remittance on consensus between the workers and their families.
9. Greater involvement of Local Government Units.

10. Conduct of a public hearing on Article 22, Labor Code, under the auspices of the House Committee on Overseas Workers Affairs.
11. Filing and passage of necessary legislation to further protect the families abandoned by OFWs.
12. Strengthening of socio-cultural values.

Programme

Background and Introduction

Ms. Ellene Sana,
CMA Executive
Director

Panel Presentation

Laws and Policies Protecting Families Abandoned by OFWs

**Atty. Farah G.
Decano**
Chair, Committee on
Children, Women &
Family Relations
Sangguniang
Panlungsod, Dagupan
City

Family Issues Surrounding Abandonment and Migration

**Atty. Henry S.
Rojas**
CMA Legal Counsel &
Founding Member
Lawyers' League for
Liberty (Libertas)

Roundtable Discussion

Office for Migrant
Workers' Affairs
(OUMWA)-DFA

Mr. Mar Dumia
Executive Director

Commission on
Filipinos Overseas
(CFO)

Ms. Lucille Ronda

Department of Social
Welfare and
Development (DSWD)

Ms. Victoria Navida

Bureau of Immigration
(BI)

**Atty. Arnulfo
Maminta**

National Labor
Relations Commission
(NLRC)

Atty. Naty Roma

House of
Representatives

**Congressman
Mayong Aguja**
AKBAYAN Party List

House Committee on
Overseas Workers
Affairs

**Atty. Chris
Lomibao**

OFW Wives

**Emily Danque
Leonila Yayong
Julie Fabian
Gloria Macchito**

Kanlungan Center

Erwin Buhawan

Center for Migrant
Advocacy (CMA)

Mike Bolos
Board Member

Unlad Kabayan

Ms. Bernice Roldan

Closing Remarks

Gus Cerdena
Friedrich Ebert
Stiftung (FES)

Introduction and Background

Ms. Ellene Sana

Executive Director
Center for Migrant Advocacy (CMA)



Social costs of migration: family separation, breakdown & abandonment

Mass labor migration exacts a heavy toll on the Filipino family. The Government's annual target deployment of one million OFWs corresponds to a proportional number of Filipino families with one or both parents absent.

Twenty-million Filipinos, or one-fourth of the population, depend on the earnings of their migrant relatives.

Migration breaks apart Filipino families. Members must endure prolonged mutual separation. Children of migrant parents grow

up under the care of their grandparents and/or of other members of their extended families. Migrant parents become absentee parents to their children, spending, at most, only a few months in a year with them. The feminization trend of Filipino labor migration, with women migrants constituting more than 70% of the annual deployment, also increases the number of children being deprived of maternal love.

Outright abandonment of family members left behind comes as another consequence of labor migration to the Filipino family. A migrant parent, usually the father, stops sending adequate regular financial support to his family in the Philippines. Home visits during vacation time become infrequent and then cease altogether. The reason: the migrant parent has acquired a new family, either in the country where he works or elsewhere in the Philippines.

In 1999, POEA recorded 1,439 abandoned families; in 2000, the figure stood at 1,344³. While the figures may not yet speak of a critical situation, the fact that more than a thousand families had reported their abandoned situation with the POEA does not augur well in light of the declared intent of labor migration in favor of the family: a way

out of poverty and a way towards a better future for everyone.

Out of sight, out of mind?

Migration may not be a new phenomenon, but separation of families, usually for extended and indefinite periods of time, is especially difficult for Filipino families where there are migrant members. Abroad, migrants themselves face the realities of homesickness, longing for all that is familiar and dear, the need to belong to a community, aggravated by an unsupportive, at times hostile, work and living environment.

At the policy level, many host countries have restrictive policies that make it impossible for migrant families to reunite.

State commitment to quality life for all, protection of the family, women and their children

Philippine laws and policies value the dignity of every person and guarantees full respect for human rights.⁴ The 1987 Philippine Constitution upholds a quality life for all that is free from hunger, poverty and social

³ ILO Gen Prom Working Paper #8, p. 41.

⁴ 1987 Philippine Constitution, Article II, Declaration of Principles and State Policies, Section 11.

injustice, and protects the rights of women and children.⁵

The State “shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all.”⁶

“The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution.”⁷

“The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.”⁸

The laws specific to the family, women and children are the Family Code and the Anti-Violence against Women and Their Children Act. Family Courts are part and parcel of this commitment to preserve the integrity and autonomy of the Filipino family.

Unfortunately, it is also the Government's promotion of labor migration that negates

⁵ Ibid. Sections 9, 10, 11, 12, 14, 15

⁶ Ibid. Section 9.

⁷ Ibid. Section 12.

⁸ Ibid. Article XV, Section 1.

these commitment and efforts to protect the family, the women and their children. As such, current laws and policies, notwithstanding their noble intentions, do not sufficiently respond to situations of migrant families where one or both parents are abroad.

Addressing the needs of abandoned families

Members of families left behind complain of irregular, inadequate and even total discontinuation of financial support by the OFW family member. An oft-cited reason is the acquisition of another family by the OFW and the abandonment of the previous one.

Members of abandoned families choose to pursue their cases because:

1. the children are too young and unable to fend for themselves;
2. the abandoned mother, as solo parent, is too hard-pressed to get a job, burdened with both the needs of the small children and the household upkeep, and;
3. the family is saddled with huge debts incurred in the course of the family member's deployment abroad.

It is against this background that we are conducting this round table discussion, which serves as the 4th and last of the Dr. Alfredo J. Ganapin Advocacy Forum, 2006 series. This RTD seeks to:

1. Better understand and address the family abandonment issue *vis-a-vis* labor migration;
2. Know how the various migration-related Government agencies approach and address the problems;
3. Identify the gaps in existing laws, policies and practices *vis-a-vis* OFW family abandonment and financial support, and;
4. Come up with concrete and practical, social and legal remedies to family abandonment by OFWs, as well as with concrete support programs particular to abandoned women parents and spouses.

Laws and Policies Protecting Families Abandoned by OFWs

Attorney Farah G. Decano

Councilor and Chairperson

Committee on Children, Women, and Family Relations

Sangguniang Panlungsod⁹, Dagupan City



Legal benefits for families abandoned by OFWs

The *Philippine Constitution* provides the basic legal framework that promotes social justice and order through adequate social services, full employment, rising standards of living, and improved quality of life. It also provides for the protection and security of the Filipino family.

⁹ City Council

On the other hand, *Republic Act (RA) 8042 (Migrant Workers' Act)*, recognizes the overseas Filipino workers as most significant contributors to the economic development of the country.

The same law, however, stipulates that the State does not promote overseas employment to sustain a genuine economic growth. But recognizing the fact that the Philippines cannot absorb all the workers, laws have been created to protect the overseas Filipino workers and their families.

Article 22 of Presidential Decree 442 (Philippine Labor Code), as amended, provides for a mandatory remittance for the families and dependents of OFWs. Sea-based OFWs are required to remit 70% of their monthly income; those land-based should remit 50 %.

The Labor Code also requires that both the Filipino workers and their employers sign a stipulation of this remittance for the workers' dependents.

The problem, however is that only the sea-based companies observe the required remittance provision. Based on the report given by the Overseas Worker Welfare Administration (OWWA) of Region 1, the land-

based companies are relatively smaller and, especially in the case of domestic helpers with single employers at a given time, preparing the mandatory remittance document means a lot of extra work.

The Philippine Overseas Employment Administration (POEA), which does not appear to be in this RTD's list of reactors', is the Government agency duly mandated to ensure the inclusion of this mandatory remittance in the contract of all OFWs who leave the country.

The documented OFWs, through OWWA, can also avail themselves of a loan assistance of up to ₱40, 000 (*RA 8042, Sec 21: pre departure loan*). This aims to protect them from loan sharks during the processing of their applications.

Section 30 (a) of RA 8042's Implementing Rules and Regulations (IRR) also provides for a family assistance loan for emergency purposes.

Furthermore, *Section 30 (b) of RA 8042* provides for a scholarship that dependents of OFWs can avail themselves of. This, however, is limited only to courses in science and technology, because part of the funds for this scholarship comes from the Department of Science and Technology (DOST).

Section 36 of the IRR also provides for social insurance upon payment of \$25 to OWWA. This same office conducts regular counseling and livelihood training programs for OFWs and their families. At present, except in scholarship cases, OWWA enforces a moratorium on these benefit packages for the OFWs.

Under *RA 8972 (The Solo Parent's Act)*, the solo parent refers to any parent or person left alone or abandoned by the OFWs to assume their responsibilities for the children. The solo parent is a duly accredited position that must be applied for through the National Economic Development Authority (NEDA).

RA 8972 mandates all Government agencies, especially the departments of Social Welfare and Development, Health, Interior and Local Governments, to come up with livelihood projects, health benefits, series of counseling programs and seven-day parental leave for the solo parent. The seven (7) days additional leave, though, is not cumulative, *i.e.*, it is forfeited when not enjoyed in a given year.

RA 8972 also provides for scholarship and housing benefits, with liberal payment terms through the National Housing Authority (NHA).

Legal remedies

According to the Executive Order 209 as amended (*Family Code*), abandonment can be classified into two forms:

1. *Actual abandonment* refers to the departure of the spouse from the conjugal dwelling without any intention to return. This is presumed when the abandoning spouse fails to communicate with his/her families in the Philippines for more than three (3) months.
2. *Constructive abandonment* refers to the situation when the spouse present refuses to welcome or accept the returning partner in the dwelling place occupied by the family in the Philippines.

In case of any of the two types of abandonment, the spouse left can avail her/himself of the following legal remedies:

1. *Receivership of conjugal properties (Article 101, Family Code)*. This remedy is settled at the court; it refers to the request of the abandoned spouse to serve as the administrator of the conjugal properties.

2. *Judicial separation of property (Article 55, Family Code)*. This is also filed with the court and refers to the application of the abandoned spouse to claim back his/her share in the community properties acquired. The judicial separation right entitles the abandoned spouse to sell or dispose of his/her share. If the abandoned spouse fails to secure the judicial separation of property, she/he cannot dispose of any conjugal property without the written consent of the abandoning spouse.
3. *Sole administratorship of property (Articles 101, 128, Family Code)* is a similar remedy that can be availed of. This entitles the abandoned spouse to serve as administrator of his/her spouse's property, including those that the latter inherited.

The first three remedies can be filed in court when abandonment takes place in a period of at least three (3) months.

4. *Legal separation* under the circumstances stated in *Article 55, Family Code*. This can be filed when the abandonment has taken place in a period of at least one (1) year. Legal separation entitles the abandoned spouse to have custody of the children.

In case of profits derived from community properties of their separated parents, these children become the rightful heirs, instead of their abandoning parent. Under the law on legal separation, the abandoning spouse is not entitled to inherit any community property.

5. *Declaration of nullity of marriage (Article 36, Family Code)*. This remedy can only be filed in court for a specific reason: grave psychological incapacity of the abandoning spouse. The following criteria must be met to be approved for nullity of marriage:
 - a. The psychological incapacity should be the most serious personality disorder;
 - b. Such personality disorder must be existing even before the marriage, *i.e.*, said condition was with juridical antecedence;
 - c. The said medical condition must be incurable, and;
 - d. That abandonment is just a manifestation of that psychological incapacity.
6. *Declaration of presumptive death for purposes of remarriage (Article 41, Family Code)*. When the spouse either

fails to communicate with his/her spouse or family within a period of at least four (4) years, or when such absence is most likely due to presumptive death, *e.g.*, caused by a calamity or accident and the body of the spouse is never recovered (in which case, the waiting time is only for a minimum of two (2) years) the abandoned spouse can file for a summary proceeding and apply for a declaration of presumptive death for purposes of remarriage.

7. *Other relief for neglect of duties (Article 72, Family Code).* An abandoned spouse can file for other relief for neglect of duties in case of unexplained abandonment, or when the abandoning spouse has done something that caused a family dishonor.
8. *Declaration of absence, (Art. 101, Family Code)* may be filed by the abandoned family, in cases when the OFW abandons a live-in partner, or his/her siblings and parents, for a period of at least two (2) years. Absence refers to a legal status of one who is not a domicile, his/her whereabouts remaining unknown and it is uncertain if he/she is alive or dead.

Relatives, children, or heirs can apply in court as the legal administrator of the abandoning partner's properties. If absence of the abandoning OFWs has been more than ten (10) years, the properties can already be divided among the heirs.

9. *Filing for non-support (Art. 195, Family Code).* An abandoned family can sue for non-support when the head of family (*e.g.*, the OFW) fails to provide indispensable sustenance for food, clothing, medicine, education and transportation in keeping with the financial capacity of the family. Remedies for non-support include filing the case with the National Labor Relation Commission (NLRC) of the Department of Labor and Employment (DOLE).

A similar case of petition for support can be filed in accordance with the provisions of RA 9262, (*The Anti-Violence Against Women and Their Children Act*). According to this law, a petition for support can be applied for by anyone against anyone with whom she/he has a romantic or dating relationship.

10. *Remarriage to another (Art. 55, Family Code, Article 349 of Title 12, Crimes Against the Civil Status of Persons, Revised Penal Code)*. In case the OFW remarries and abandons the first family, the latter can file a case for either bigamy or legal separation, a petition for support, or for nullity of marriage.

In conclusion, I pose the following challenges:

1. How do we acquire jurisdiction over the person of the OFW? The appropriate case cannot be filed unless the concerned OFW is physically identified and can be located.
2. What if the abandoning OFWs do not have properties from which to get the support for the abandoned family? In this case, help from the OWWA, DFA and other agencies should be accessed.
3. How do we avail ourselves of the legal benefits provided by various laws? There is clearly poor implementation of these laws.
4. If abandoned families cannot afford to file the case, what extra-legal remedies may be employed?

Family Issues Surrounding Abandonment and Migration

Attorney Henry Rojas

CMA Legal Counsel
Libertas Founding Member



Abandonment of families, concubinage, adultery, having a second family, having illegitimate children, failure or refusal to provide for the family, etc. are personal and family problems that happen in any society. These problems are not peculiar to OFWs. Since these are general social problems, there are laws that provide the means by which the aggrieved parties can seek redress.

In addition to existing laws discussed by Atty. Decano, there are established cultural, social, and religious norms that guide our views, values and conduct in determining what is right and wrong. Friends, relatives and family members are in the position to advise the

concerned parties on what is socially acceptable in cases of abandonment. However, what these established norms are become increasingly difficult to determine because of the changing family patterns brought about by migration.

Unlike before, when migration was limited to Filipinos and their families moving to the United States, present trends show that OFWs are literally in all parts of the world. The recent situation also involves a significant number of families, sometimes even an entire community, leaving the country. This increase in overseas migration also brings with it a corresponding increase in such personal, family and social problems as separation, abandonment and other related problems.

The social problems brought by overseas migration should be measured and studied thoroughly. Appropriate Government agencies, like the Department of Foreign Affairs, start addressing these problems initially through data gathering. Such empirical studies should be used as basis for formulation of new policies. Among others, completion database studies should be able to:

1. Measure the extent and magnitude of these problems;

2. Measure the long and short-term effects of overseas migration on society, especially on:
 - a. family values
 - b. the number of children to be reared
 - c. the increasing number of years of separation between couples and families
 - d. the solo parenting phenomenon
 - e. having surrogates to parents
 - f. absentee parenting
3. Determine what the appropriate Government agencies should do to address these problems.

There are existing laws that provide for the protection of families and overseas workers. However, there are some strains that prevent the OFWs from enjoying these legal remedies and protections. The following are the causes why supporting OFWs in trouble becomes difficult:

1. Some of these OFWs do not have valid documents for overseas work. (Atty. Rojas then cited some cases wherein it became difficult to help undocumented workers.)
2. There is the near impossibility of execution of Philippine court judgments abroad. There are many cases wherein

OFWs had been ordered by Philippine courts to provide support for their families, but who ignore said orders because they are already abroad.

Considering the difficulties brought about by migration and the possibility of abandonment, families of migrant workers should be able to adopt social and practical remedies for their problems. They should make sure that the earnings of migrant workers are translated into savings, properties, or put to any productive use in the Philippines. These ensure a viable course of action in case family problems arise.

Circumstances surrounding the mandatory remittance provision in the Philippine Labor Code

In the 1980's, OFWs themselves campaigned hard against the implementation of the mandatory remittance provision, arguing that, while they themselves were cognizant of their duty to provide for their families, they, nevertheless, considered it their right to decide how their hard-earned pay should be spent.

The International Labor Organization (ILO) upheld the position of the migrant workers, concluding that it is the right of the workers,

not of the State, to determine the disposition of their own wages.

In 1984, then President Ferdinand Marcos repealed the penalty provision of *Executive Order (EO) 857* via *EO 935*.

As a consequence, the principle of mandatory remittance remains, but there is no enforcement mechanism to ensure compliance by all companies and migrant workers. The absence of this enforcement mechanism aims to achieve a balance between the rights of workers and of their families.

EO 857 also relieved the POEA of its administrative jurisdiction in implementing the mandatory remittance provision. POEA's function was, thus, confined to the employer-employee relations, relegating the remittance issue into a purely family matter. This provision left to the discretion of the migrant workers the manner by which they would provide support to their families left behind.

Recommendations

I urge this audience to make continuing studies to explore the magnitude of the abandonment problems and use those studies as bases for future policy recommendations.

Family disputes are usually resolved through conciliation and mediation procedures. Mechanisms should be developed in order to expand these mediation and conciliatory procedures to address the problems unique to Filipinos working abroad.

Another possible solution is the exploration of support mechanisms established in the form of bilateral agreements with other countries, such agreements ensuring that the orders of Philippine courts are carried out in the country where the Filipino migrant works.

We can also seek support to cover the increasing cost of litigation for the abandoned families.

Furthermore, access to quasi-judicial bodies and off-court settlements should be protected, safeguarded and extended to abandoned families.

The feasibility of providing free legal assistance and exemption from selected court fees should also be studied. The same privileges for abandoned families of foreign spouses should likewise be explored.

However, other than the legal remedies, the Philippines should look at ways to strengthen our own social norms and values and how

these can be preserved and recognized in the countries where our migrants work.

Round-Table Discussions

Department of Foreign Affairs

Mr. Mar Dumia, Executive Director of the Office of the Undersecretary for Migrant Workers' Affairs (OUMWA) under the Department of Foreign Affairs (DFA), briefly discussed their mandate to work for the protection of the rights and welfare of all Filipinos abroad, whether documented, undocumented, tourists, residents or migrants.

OUMWA, in coordination with other Government agencies, assists Filipinos abroad in the settlement of their problems related to non-payment of salaries, violations of local customs and religious practices, unfair labor practice, employer-employee relations, illegal recruitment and even claims for support.

Executive Director Dumia said that the DFA has the appropriate offices, *e.g.*, embassies and consulates, to address the various problems of OFWs and their abandoned families. Court processes such as summonses, decisions, warrants and hearing notices are endorsed to the DFA and transmitted to the relevant embassies or consulates.

The offices of the consuls and vice-consuls can then take the necessary action, ranging from locating and establishing the whereabouts of the family member, to seeing to the family's request for financial support.

Even as the abandoned family seeks legal redress through the courts, DFA's thrust is, nevertheless, to effect reconciliation and avoid litigation, providing the family with counseling and social support services.

Commission on Filipinos Overseas (CFO)

Ms. Lucille Ronda from the Commission on Filipinos Overseas (CFO) explained that CFO's clients are the overseas Filipinos and their descendants who are immigrants, have been naturalized, or are permanent residents, as well as the spouses and fiancées of foreign nationals. The CFO is under the Office of the President.

CFO has a counseling service to inform, empower and equip these prospective immigrants in respect of their basic rights, the culture of their respective countries of destination and the problems they are likely to encounter. CFO-Accredited NGOs conduct the counseling service.

Of particular concern to the CFO is the abandonment of Filipino spouses and fiancées by their foreign spouses, admitting that Government agencies like CFO cannot address all the needs of Filipinos migrating to other countries.

She thanked CMA for inviting her office to this RTD and urged the audience to seek the help of CFO for any problem related to immigration to and settlement of Filipinos abroad.

Department of Social Welfare and Development (DSWD)

To Ms. Victoria Navida's knowledge, there are no existing Government inter-agency networks or offices that address the needs and problems of families abandoned by OFWs.

She explained that the DSWD works with other Government agencies and provides crisis-intervention programs, both at the national and local government levels, to protect the welfare of families, women and children.

DSWD intervention takes various forms, including the calling of a family council to thresh out specific family problems, as well as the development, validation and use of

training modules. Currently being validated are modules dealing with an examination of their family values, strengthening of communication links between and among members of the family, stress management, entrepreneurship and the concept of savings.

Ms. Navida concluded that the magnitude and extent of these problems should be studied via a good research so that appropriate policies may be developed.

Bureau of Immigration (BI)

Atty. Arnulfo Maminta rued the absence of a representative from the Department of Justice (DOJ) whose presence is very crucial. BI, whose fair share is to simplify the problem, is just one bureau under DOJ; many of the problems of families abandoned by OFWs should rightly be addressed to the DOJ.

Atty. Maminta noted that most families abandoned by OFWs do not have sufficient resources to file a proper case, thereby leading them the sole recourse of seeking a "hold-departure" order against the errant OFW. In any given week, his office deals with a mother or a father requesting the "hold-departure" of a particular person,

often in connection with a claim for support.

However, any action by the BI with regard to travelers included in the DOJ watch list or who are subject of a “hold-departure” order, including departing OFWs, has to proceed from a DOJ order. Nevertheless, the Bureau endeavors to settle such disputes through mediation and avoid antagonistic and protracted litigation.

National Labor Relations Commission (NLRC)

Atty. Naty Roma explained that the NLRC mandate is to deal with employer-employee relations for local workers; its counterpart for OFW labor concerns is the Philippine Overseas Labor Office (POLO). Nevertheless, it networks with the Overseas Worker Welfare Administration (OWWA) and extends legal and social assistance to workers and families.

Atty. Roma explained that the main issue for the OFWs is loneliness. While they may have the money, loneliness leads them to look for love and attention from whoever is available and may be physically present. Problems arise particularly when these OFWs are already married before they leave the Philippines.

Attendant problems are those of children succumbing to drugs, etc. Stressing that there are enough Government offices that can help the families abandoned by OFWs, she urges the conduct of a Government study to get to the root of and address the problem.

She also urged all forms of support to the OFWs to cushion the effects of loneliness and abate instances of abandonment that result from adulterous relationships while working abroad.

Finally, she encourages OFWs to ensure they have the valid documents.

Cong. Mayong Aguja

Cong. Aguja congratulated CMA for conducting this RTD, an activity similar to which, he believed, the Government had not yet done.

Cong. Aguja asserted that the problem of families abandoned by OFWs is neither simply legal, nor social in nature; it is primarily political, because:

1. It involves constraints in resources. He asked how many Government posts worldwide are available and accessible

to our people seeking help in times of trouble.

2. These offices' often too legalistic outlook and approach cramp, if not inhibit, their flexibility in promptly addressing the specific problems of OFWs and their families.
3. As such, the Filipino norm of seeking help from relatives and friends in troubled times takes over. The last thing they do is seek help from Government agencies whose attitudes and work ethic, based on their personal experience, they find unreliable and untrustworthy.

Nevertheless, the Congressman suggested the following measures to address the problems of families abandoned by OFWs:

1. Deploy more social workers (especially in the Middle East, where OFWs are most vulnerable) to help the embassies in providing social support to OFWs and their dependents. Such help is not necessarily legal in nature since, in most cases, all that the distressed OFWs or families of migrant workers need is social support.

2. Promote the establishment of a sort of one-stop shop in each of the embassies to address specific problems of these OFWs. Social workers, being professionally trained in dealing with people in distress, are in the best position to man these one-stop shops. They can keep very personal and sometimes agonizing family matters within the confines of the counseling room. The DSWD, among other Government agencies, can address these problems.
3. On the local level, push local governments to propel the local economy, educate families to make good use of remittances received, and even encourage the empowerment of families of OFWs through their organization and aspiration to becoming potent political units.
4. Organize the Filipinos abroad to address problems on loneliness, co-worker relationships, *chismis*¹⁰ and intrigues. Because of local peculiarities of their problems, such organizations should be done via a country-team approach.

¹⁰ rumors

5. Create a special DFA team to conduct comprehensive research and gather the needed data on the magnitude of the problem, as well as formulate and propose relevant policy recommendations. This in view of the fact that conciliation and mediation may not always be the most feasible approaches to resolving migration-related family conflicts.

Committee on Overseas Workers' Affairs, House of Representatives

Atty. Chris Lomibao, Secretary of the Committee on Overseas Workers' Affairs, House of Representatives, explained that his office networks with various Government and non-government agencies involved in protecting the welfare of OFWs, monitoring what relevant laws may yet be necessary, enacted or better implemented.

He invited participants to propose needed legislation to further protect families abandoned by OFWs. Furthermore, he commits to include in the Committee agenda the review of Article 22 of the Labor Code on mandatory remittance.

Reactions from some abandoned families

- A seaman's wife revealed that her OFW husband now lives with another woman. Since her husband had, at various times, been working with various seafarers' companies and been posted to various places, she had lost contact with him; neither had her husband kept in touch. She complained that, at his last homecoming, he gave far more to his other woman than the US\$100 he gave her.

She wanted to know what courses of action she might take to get financial support from him and from which office to seek help.

She also suggested that a law be enacted requiring the husbands to remit their salaries only to their legal wives.

- The wife of a Jeddah-based mechanic and air conditioning technician said that she and her children seldom got calls from him, having, in effect, been abandoned for the last 10 years. She surmised that her husband's constant refusal to reveal his contact details might have been out of fear that she might sue him for abandonment.

- The wife of another OFW asked why the OWWA allows other women or live-in partners to be OFW allottees¹¹, instead of the OFW's legal wives. She lamented that, despite having presented all necessary documents to POEA to prove she is the legal wife and, therefore, the legitimate allottee, OWWA and POEA remain intransigent.
- A tearful wife of a Dubai-based OFW revealed that after her husband's abandonment, all her five children rebelled and got into all sorts of troubles, having been unable to accept the fact that they had become just another broken family. The only advice she got from POEA and OWWA was for her to sue her husband, cautioning her, however, that they did not wish to have anything to do, otherwise, with her family affairs.
- A mother of a seaman asked how she can claim for support from her son who, after his departure, ceased all communication with her and with rest of the family.
- Another wife asked what redress mechanisms are available to her and her family against her husband who

now works locally at the Manila Water Company, but who now has another family. She asserts that the ₱6,000 regular monthly allotment she receives from him is far too inadequate to address the other needs beyond their autistic child's ₱200.00-daily medical maintenance.

Reactions from the NGOs

Kanlungan

Erwin Buhawan, Paralegal Adviser of Kanlungan Center, admitted there are legal, but very costly, remedies for families abandoned by OFWs. The Public Attorney's Office (PAO) does not even seem sympathetic, invariably dissuading complainants from filing the appropriate charges.

He also added that, according to existing laws, OWWA and POEA are no longer expected to mediate in family affairs.

Nina Belmonte, Kanlungan social worker, thanked Congressman Aguja for appreciating social work as a profession. She asked what kind of support can be given to families abandoned by their OFW breadwinners.

¹¹ allotment recipients

Center for Migrant Advocacy

Mike Bolos, board member of CMA, revealed that, after having been an OFW in Saudi Arabia for 25 years, he had just recently returned and resettled in the Philippines. Mike complimented Mr. Dumia of OUMWA for being a most competent diplomat who was able to help countless of OFWs based in the Middle East, especially in Saudi Arabia.¹²

Mike said that he is aware of the difficulties faced particularly by domestic helpers and by other low-income migrant workers that lead to their failure to comply with the mandatory remittance law. In many cases, these workers secure salary loans with regular salary-deductible payments. Under the circumstances, both employers and employees are, thus, persuaded that the mandatory remittance is unnecessary and unwise for being inflexible.

Mike said, as an aside, that, having just returned for good in the Philippines, his current business

engagements necessitate his having to secure various permits, licenses, etc. from Government's regulatory agencies. However, with the low level of competence, professionalism and dedication to public service exhibited by those with whom he has dealt, Mike is seriously considering returning to work overseas.

Unlad Kabayan

Having pointed out that Unlad Kabayan conducts popular education programs for families abandoned by OFWs, advocacy officer Ms. Bernice Roldan agreed that recourse to the usual legal remedies is a tedious, stressful and costly process. Nevertheless, she suggested that families of abandoned families be educated on such matters.

She also challenged the forum participants to be more creative in their programs and go well beyond the plain and traditional lectures. Such topics as rights of migrants and of their families, financial literacy and other migrant-critical issues, while crucial, are abstracts not easily appreciated if delivered by lecture alone and, therefore, need creative, imaginative and realistic ways to impart.

¹² Mr. Dumia served in the Philippine post in Saudi Arabia prior to his current OUMWA post.

Responses from the resource persons

- Atty. Farah G. Decano agreed that filing and pursuing litigation is indeed a long, costly and confrontational experience that, in the long run, fractures families, instead of reconciling them. She proposed that recourse to legal remedies by litigation be a last resort, priority being given to social and extra judicial remedies. However, in instances of economic neglect consequent to abandonment, the appropriate case for violation of RA 9262 may be filed.

Addressing the earlier queries, she advised the abandoned wives that, prior to filing an abandonment case, the errant OFWs must first be identified and located, an endeavor in which the National Bureau of Investigation (NBI) would be most helpful.

In regard to properties, she encouraged OFWs to execute a Special Power of Attorney (SPA) in favor of their wives, or of any trusted family member, to enable the latter to administer and transact business in respect of the property in the OFW's absence.

Atty. Decano also supported the recommendation for POEA, or other appropriate Government agency, to enforce the implementation of the mandatory remittance. However, she stressed that, prior to promulgating and implementing any mandatory remittance arrangement, such office must study the OFWs' unique conditions in terms of their salary ranges, the quality of life in the countries where they work and the families' per capita expenses. She reiterated her sense that remittance should be a consensus-based arrangement between the workers and their families.

- Atty. Rojas supported the points raised by both Atty. Decano and Cong. Aguja. He reiterated his belief that the one-stop-center would be most useful in providing immediate help to OFWs and their families in distress.

Final reactions from OUMWA

Mindful that some families of OFWs fail to get the appropriate and timely help from the DFA, OUMWA Executive Director Dumia declared his support for the

creation of one-stop centers in all DFA offices.

After complimenting the most active and organized families of Saudi Arabia-based OFWs, particularly noting the dedicated advocacy efforts initiated by Mike Bolos and Alfred Ganapin Jr. to protect the welfare of Saudi Arabia-based OFWs, he urged the forum attendees to go to DFA for any migration-related problem.

Closing Remarks

Gus Cerdena

Friedrich Ebert Stiftung (FES)



FES supports the OFWs and the Center for Migrant Advocacy. CMA has been working as a one-stop center for a long while.

As the families of migrant workers continue to evolve, the appropriate support systems should be established. I urge this audience to pursue and sustain the advocacy for the families abandoned by OFWs.

Such advocacy should not pit the legal wives against the other women, but address the root of all the problems. There are still a lot of things to be done to help the OFWs and their families.

I challenge everybody to pursue this advocacy work.

Recommendations

(As originally formulated)

1. Study the possibility of including in bilateral agreements the establishment of mechanisms for the enforcement of court judgment or mechanism to implement provision of support to the families left behind.
2. Study the feasibility of extending legal assistance to the families of migrant workers and exemption from court fees; legal assistance to those Filipino women abandoned by their foreign spouses.
3. Study the feasibility of Government assistance in this respect.
4. More Study of administrative support mechanism for non-judicial mechanisms.
5. Expand conciliation and mediation processes.
6. Strengthen socio-cultural values.
7. POEA or any appropriate Government agency should enforce the implementation of the mandatory remittance.
8. The same office must also study the conditions of the OFWs in terms of their salary ranges, per capita expenses of families left, and quality of life in the country where they work before making the mandatory remittance arrangements.
9. Remittance should be based on the consensus of the workers and their families.
10. Establishment of a One-Stop Center for abandoned families - not necessarily a physical center but with a clear inter-agency referral system.
11. Deployment of more social workers in the post/abroad.
12. Involvement of Local Government units.
13. Harmonization of the budget to reflect the One-Country-Team Approach policy.
14. House Committee on Overseas Workers Affairs, Secretary – to conduct public hearing on non-implementation of the Article 22 of the Labor Code.

15. File the necessary legislation to protect further the families abandoned by OFWs.

List of Participants

Organization	Name & Position
Government	
Executive Branch	
Bureau of Immigration (BI)	Atty. Arnulfo Maminta Ms. Samcel Manliquez Ms. Leticia Fatalla
Commission on Filipinos Overseas (CFO)	Ms. Lucille Ronda
Department of Social Work and Development (DSWD)	Ms. Victoria Navida
National Labor Relations Commission (NLRC)	Atty. Naty Roma
OUMWA-DFA	Atty. Mar Dumia, Executive Director
Legislative Branch	
	Rep. Mayong Aguja, Akbayan Atty. Chris Lomibao, Secretary, Committee on Overseas Workers' Affairs, House of Representatives

Local Government Atty. Farah Decano
Sangguniang
Panlalawigan,
Dagupan City Council

NGOs

Batis Center for Women Ms. Akiko Hirata

Center for Migrant Advocacy Mr. Mike Bolos, Board Member
Ms. Ellene Sana, Exec. Director
Atty. Henry Rojas, Legal Counsel
Ms. Anna Liza Navarro
Ms. Hazel Cotoner
Ms. Malu Pundar

Child Justice League Atty. Amy Avellano

Kanlungan Ms. Pia Ann Ramos
Mr. Erwin Puhawan, Legal Adviser
Ms. Nina Belmonte, Social Worker

Unlad Kabayan Ms. Bernice Roldan

OFW Families
(wives)

Mrs. Corie Gundan
Mrs. Emily Danque
Mrs. Gloria Macahinto
Mrs. Julie Fabian
Mrs. Leonila Yayong
Mrs. Qurubin Sermino

Academe

Dr. Melfor Atienza, UP
Manila
Prof. Erlyn Sana, UP
Manila

**Friedrich Ebert
Stiftung (FES)**

Ms. Joanne Barriga
Mr. Gus Cerdena
Ms. Vera Frieg

Annexes

Annex 1 - PowerPoint Presentations

A. Introduction and Background

B. Existing Policies and Legal Remedies for Abandoned Families of OFWs

Annex 2 – Photos



Kanlungan and OFW Families



OFW Wives, CMA



Government Executive Agencies – DFA,
DSWD, CFO



OFW Wives



CMA, BI



Atty. Farah Decano, Atty Henry Rojas



Ms. Victoria Navida, DSWD



Atty. Mar Dumia, OUMWA-DFA



Atty. Arnulfo Maminta, BI



Rep. Mayong Aguja, Akbayan



Atty. Chris Lomibao, Ms. Bernice Roldan



Mr. Mike Bolos, CMA



Mr. Gus Cerdena, FES



Atty. Naty Roma, NLRC



Atty. Farah Decano



Mr. Mike Bolos, CMA



Mr. Gus Cerdena, FES