



# MIGRANTE INTERNATIONAL

"We dream of a society  
that will never be torn  
apart just for the need  
to survive!"

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**A written submission to the UN Human Rights Council by MIGRANTE INTERNATIONAL,  
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## **PHILIPPINES: Action required to protect the human rights of Filipino migrant workers on death row in the Middle East and other parts of the globe**

1. The number of overseas Filipino workers (OFWs) leaving the country daily has increased from 2,500 in 2009 to 4,884 in 2010, and increased further to 6,092 by early 2015, according to the Department of Labor and Employment (DOLE). By 2012, at least one-fourth of the country's labor force has gone abroad to find work. According to DOLE, there are now 12 million OFWs abroad. Migrante International pegs the number of OFWs between 12 to 15 million, to include undocumented OFWs.

2. Migrante International would like to draw the attention of the Human Rights Council to the pattern of human rights abuses on OFWs on death row in the Middle East and other parts of the world worsened by the Philippines government's neglect that has put them in more vulnerable situations.

### **Background**

3. Eight Filipinos were executed abroad under the term of former Pres. Benigno Aquino III, a record by itself. There are presently 92 Filipinos on death row abroad, according to the Department of Foreign Affairs (DFA).

4. Migrante International is currently handling and monitoring 18 cases involving 35 OFWs (11 women and 24 men) in six countries (Kingdom of Saudi Arabia, United Arab Emirates, Kuwait, Iran, China, Indonesia), majority of whom (13) are in Saudi Arabia.

The nature of the cases are:

- i. Drug-related: 5 (Mary Jane Veloso, Edmar Aquino, Junevie San Juan, Andrew Madurog, Doroteo Mayari)
- ii. Murder: 8 (Alberto Rosario, Joselito Zapanta\*, Edison Gonzales, Rolando Gonzales, Rigor de Padua, Maria Fe Cruzado, Rose Dacanay, Jennifer Dalquez,)
- iii. Embezzlement: 2 (Albert Azares, Renie Matibag)
- iv. Homicide: 1 (Arnel Magtoto)
- v. Others: 21 (Theft – Pedro Parilla, Serious physical injury – Ryan Sia\*\*, Human trafficking – Manolito Carbonel\*\*, Immorality – Elmer Lalis\*\*)

*\*beheaded in Saudi Arabia last December 2015*

*\*\*released, finished jail term*

Death row: 7 (Veloso, Zapanta, Gonzales brothers, Arcilla, Dalquez, Rosario)  
Candidates for death row: 3 (Dacanay, Madurog, San Juan)  
Jailed (life imprisonment/serving jail terms): 25 (3 life imprisonment)

5. Of the five drug-related cases, four were victimized by drug syndicates. Interestingly, one of these cases (San Juan) involves a licensed recruitment agency (First Select, still in Philippine Overseas Employment Administration's roster of licensed agencies and currently operating). Of these cases, two were already given convictions: Veloso was meted the death penalty while Aquino was given life imprisonment. The others are still under trial but two (San Juan and Madurog) are most likely to be meted death sentences as per existing laws in their respective host countries (KSA and China), due to the volume of drugs reportedly found in their belongings.

6. Of the murder cases, three admitted to the crimes on account of self-defense – Dalquez and Rosario were almost raped by their assailants while Zapanta was beaten up by his employer because of his failure to pay his rent. They are presently in different jails abroad as death convicts. In the case of Rosario et al, the four OFWs from whom Rosario asked for help were sentenced to several years of imprisonment. Zapanta was asked to raise blood money, the deadline of which has already lapsed in November 2013. Cruzado, on the other hand, was provoked by her victim and was sentenced to life imprisonment.

7. The Gonzales brothers, Arcilla and Dacanay all vehemently denied the charges against them. In the Gonzales et al case, one of them was forced to confess to the crime after they were tortured during police interrogations. Because of this, three of them were given capital punishment. In the case of Dacanay, she firmly claimed innocence and said that she was a victim of attempted rape by the real perpetrators. Her case is still under trial but the Department of Foreign Affairs (DFA) admitted in a dialogue with Migrante and her mother Editha that she is a candidate for death row.

8. Of the two cases of embezzlement, Matibag is still serving several years of imprisonment while Azares has already finished his jail term but remains in prison because his company is awaiting payment of the amount he was accused of stealing. Both of them denied the accusations.

9. Of the other cases, three were already handed out convictions. Magtoto was sentenced to life imprisonment with a blood money of SR300,000; while Carbonell, whose violation was raised from "illegally picking-up passengers" to "being implicated on human trafficking," was sentenced to one-year imprisonment.

The other cases are still on trial.

### **Philippine Government's response**

10. Based on the information gathered by Migrante through its interventions, the Philippine government did too little, too late in securing and ensuring the rights and welfare of these Filipinos. They also gave limited and impassive attention to the concerns of the families who continue to desperately seek their assistance.

Since new Pres. Rodrigo Duterte took office in May 2016, there had been no indications yet of a radical shift in the way the Philippine government addresses the cases of OFWs on death row.

**A. Absent representation and intervention in the period of arrest and investigation. In almost all of these cases, the concerned embassies failed to assist or visit the apprehended OFWs to ascertain their conditions, secure their rights and provide sufficient legal assistance and advice.<sup>1</sup>**

- In the case of Veloso, the Philippine Embassy in Jakarta was only able to visit Mary Jane on July 28, 2010, three months after her arrest and a month after Indonesian authorities informed them that the investigation had been completed and the case files had been turned over to the public prosecutor (June 24, 2010). It was only on the last visit that they were able to hear/get her account.
- Worse, in the case of Rosario et al, the Philippine Consulate in Jeddah refused to take custody. According to Rosario's account, when he stabbed in self defense the two men who were forcing him to have sex with them, he immediately ran, bruised and bleeding, to the Consulate but was denied assistance and sanctuary.

**B. No private lawyers were provided during the phase of prosecution. The accused OFWs relied mostly on the counsels supplied by the governments of the host countries. The general pattern of these cases indicates that the Philippine government hired private lawyers only AFTER the convictions have been meted out. In all of these cases, the Philippine government only procured private legal services for capital offenses and none were given for the relatively minor crimes. In almost all instances, they failed to provide competent translators, as in the case of Veloso.<sup>2</sup>**

- In the case of Aquino who was arrested on 3 October 2009, he was advised by the fiscal (November 15, 2009) that if he still had no defense lawyer within 20 days the court would hand down a sentence of 10 to 20 years imprisonment. This urgent concern was immediately relayed by the family and Migrante to the Philippine Embassy and DFA. The Embassy simply replied that, based on their knowledge, the Iranian government provides legal assistance to foreigners and that they "expect the same assistance will be provided to him." They also mentioned that they have not yet been informed if the case had already been brought to court and that they still needed to verify the imminent verdict.
- In the case of Gonzales et al, they were only given a private lawyer to appeal their case two years after they were arrested (April 2006) and almost a year (April 2008) after the verdict was delivered (July 2007). The family held much hope in the appeal because there were strong evidences to support their innocence. Surprisingly, the Court of Appeals upheld the death sentences on the Gonzales brothers and Arcilla and increased the jail terms of the others from 8 to 10 years.

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<sup>1</sup> UN International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families (UNCMW), Part III. Human Rights of All Migrant Workers and Members of Their Families, Article 16, Sections 4, 5, 6 and 8

<sup>2</sup> UNCMW, Part III, Article 18, Sections 1,2 and 3

**C. In cases where OFWs were given the death penalty or life imprisonment, the common track of the Philippine government was to appeal for executive clemency while not considering other possible legal options when there are strong indications that the OFWs were/are innocent. In the case of Veloso, for instance, it is not clear what grounds were stated in the appeals made by President Aquino to President Widodo, if they were based on assertions of her innocence and being a victim of drug syndicates or simply perfunctory written appeals. Statements made by the Indonesian Attorney General during Aquino’s last-minute appeal that signified the Philippine government’s intent to make Veloso a witness against her traffickers (“Why only now?") strongly suggest otherwise.<sup>3</sup>**

- In the case of Veloso, when the Indonesian Supreme Court upheld the death sentence, President Aquino only sent a Letter of Clemency (August 2011) to President Widodo and did not instruct the embassy to strategize thoroughly for a judicial review despite proposals from Veloso’s embassy-hired Indonesian lawyers to explore the trafficking angle. The first petition for judicial review was made only in January 2015. The petition was denied due to lack of merit and did not pursue the track that Mary Jane was a victim of drug trafficking syndicates.
- This limited strategy was also employed in cases involving “blood money”. The Philippine government came in only during the stages when there was a need to raise the blood money (usually costing millions of pesos), again after conviction, instead of exploring ways to acquit or reduce the sentences of the OFWs. This track, prevalent in cases in the Gulf region, placed the sole burden of raising blood money on the families or “private” entities (as in the case of Dondon Lanuza) and, in fact, absolved the Philippine government from any responsibility.
- In the case of Zapanta, the aggrieved family pegged a blood money worth SR5 million or roughly Php55 million, an amount impossible to acquire by the Zapanta family who are poor farmers from Central Luzon. The Philippine government-hired lawyer did not pursue the self-defense argument and did not engage the many witnesses that would have supported Zapanta’s claim. Instead, what the DFA did was to open a bank account calling on the public to help raise the blood money, and left it to the family to monitor and organize fund-raising efforts. Zapanta himself, in an interview with the local media last year, said that he was resigned to his fate and that any and all funds that could be raised just be given to other OFWs on death row.
- In the case of Cruzado, the Philippine embassy did not appeal her case on grounds of her mental state, who while in prison, suffered a mental breakdown and is still presently undergoing treatment. The Philippine Embassy in Kuwait is well aware of her situation. Although her death sentence was commuted to life imprisonment, her family, who only subsists on vending cooked corn, does not have any means to pay the blood money worth KD10,000.

**D. Families of the jailed OFWs were kept in the dark and were not actively involved in the processes of the cases. In several incidents, DFA legal officers were not sensitive to the situation of the families and some officials even resorted to derogatory insinuations.<sup>4</sup>**

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<sup>3</sup> UNCMW, Part III, Article 18, Sections 5 and 6

<sup>4</sup> UNCMW, Part III, Article 16, Section 7

- In all of these cases, because of the desperation and grave concern of the families for the security and welfare of their loved ones, they regularly visited or called on the DFA to request for updates and/or report any information that they were able to gather. But the case officers just dismissed them/their reports with the following standard responses: (1) they do not have updates; (2) to just follow-up again; and/or, (3) the person in charge is away/on leave/not present, instead of giving them substantial advice on how they can coordinate with the government in the resolution of the cases of their loved ones.
- In the case of Dacanay, her mother only knew of her predicament a month after her arrest through a phone call from a friend. From July 2013 until early of this year, she went back and forth to the DFA and other government offices but was not able to get any substantial response. She was even able to meet Philippine Ambassador to Saudi Arabia Ezzedin Tago last year but again was not supplied any information. It was only through a dialogue facilitated by Migrante with DFA officials and DFA case officers last March 24 that they revealed Dacanay's case status as "candidate for death row." They agreed to provide a written report to the family but are yet to fulfill their promise.
- In the cases of Aquino and Veloso, relatives experienced derogatory insinuations from DFA personnel. DFA legal officer Bert Manayao told Aquino's mother that her son should suffer in prison even though his case is still being heard. DFA legal officer Patricia Mocom, after failing to assist the Veloso family in their passport applications, belittled the family's financial capacity to travel.

### **Conclusions**

There is a general state policy of neglect and apathy for OFWs facing criminal charges abroad, and their families.

OFWs facing criminal charges are denied due process and "criminalized" even by the Philippine government.

Philippine government comes in only after a conviction has been meted out, and even then, selective assistance is only limited to cases of capital punishment.

The DFA has not been transparent, and in majority of these cases "clueless", in the on-goings and processes faced by OFWs from the time of arrest to conviction. In most situations the DFA learned about these cases from the families themselves, instead of the other way around.

### **Recommendations**

Migrante International calls on the Human Rights Council to direct the new Duterte administration:

- to reform its treatment and assistance for OFWs on death row, in compliance with the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- to actively evaluate what it can do domestically legally as part of legal assistance for OFWs, especially those victimized by illegal recruiters and traffickers, as in the Veloso case.
- to conduct a transparent full audit of how funds for legal assistance (LAF) and assistance to nationals (ATN) are utilized, as stipulated in Republic Act 8042, amended by RA 10022, or the Migrant Workers and Overseas Filipinos Act of 1995. Particularly, there is an urgent need to investigate why the intended allocations for the LAF have been

decreasing since 2010, as well as the Presidential Veto of the LAF for the 2015 national budget.

Migrante International calls on the Human Rights Council to urge the Philippine Congress:

- to look into the closure of at least 10 Philippine posts/embassies in 2012, supposedly as part of the government's "austerity measures". The closure of Philippine posts in some countries has a direct negative effect on the provision of legal assistance to OFWs facing criminal charges abroad.
- to summon, investigate and sanction negligent and callous embassy and DFA officials who treat OFWs and their families seeking legal assistance as mere nuisances. On the other hand, there is a need to increase and train more competent and compassionate case officers and embassy officials in the spirit of genuine public service. ###