



Office of the President of the Philippines  
**COMMISSION ON FILIPINOS OVERSEAS**



**"Responding to the Challenges of Migration and Development"**

24 November 2017

**REPRESENTATIVE SOL ARAGONES**

Chair, Committee on Population and Family Relations  
3/F Ramon V. Mitra Building, Batasan Complex  
Constitution Hills, Quezon City

Attention: **Ms. Isabelita Magnaye**  
Committee Secretary

Dear Representative Aragones:

Greetings from the Commission on Filipinos Overseas (CFO)!

With reference to your letter of 22 November 2017, we are pleased to submit CFO's inputs to House Bill No. 6446 on recognition of foreign divorce authored by Representative Pia S. Cayetano. We thank the Committee for the opportunity to provide inputs to the proposed legislation and convey our continued commitment to provide assistance to Congress.

We have attached for reference our inputs to HB No. 6466. May we also take this opportunity to suggest to the Committee to invite Professor Katrina Legarda of the UP College of Law ([katlegarda@yahoo.com](mailto:katlegarda@yahoo.com)) as resource person for the said hearings. Prof. Legarda recently served as panellist during the Philippines – Japan Law Conference 2017 on Family Law Issues in Filipino-Japanese Cases last November 17, 2017 which was organized by the Integrated Bar of the Philippines, the Japan Federation of Bar Associations and the University of the Philippines. We believe Prof. Legarda's excellent analysis and insights pertaining to recognition of divorce will make for valuable contribution to the Committee hearings.

For any queries, your office may contact Mr. Rodrigo V. Garcia, Jr, of the Policy, Planning and Research Division with the following contact details: telephone number 552-4765, fax number 561-8160 and email address: [rgarcia@cfo.gov.ph](mailto:rgarcia@cfo.gov.ph)

Thank you and best regards.

Very truly yours,

**MARIA REGINA ANGELA G. GALIAS**  
Interim Officer-in-Charge

**Office of the President  
COMMISSION ON FILIPINOS OVERSEAS**

**POLICY INPUTS ON HOUSE BILL NO. 6446  
AN ACT RECOGNIZING THE CAPACITY OF THE FILIPINO SPOUSE TO  
REMARRY WHEN THE ALIEN SPOUSE HAS OBTAINED A FOREIGN JUDICIAL  
DECREE OF ABSOLUTE DIVORCE, AMENDING FOR THE PURPOSE EXECUTIVE  
ORDER NO. 209, OTHERWISE KNOWN AS THE FAMILY CODE OF THE  
PHILIPPINES**

1. The Commission on Filipinos Overseas (CFO) would like to express its full support for HB No. 6446 in its legislative intent to recognize the right of Filipino spouses who have been divorced by their foreign spouses to remarry. CFO is an agency of the Philippine government under the Office of the President established through *Batas Pambansa Bilang 79* tasked to promote and uphold the interests, rights and welfare of overseas Filipinos, including marriage migrants, and strengthen their ties with the Motherland.
2. CFO conducts the mandatory Guidance and Counseling Program (GCP) for spouses and other partners of foreign nationals. A guidance and counseling certificate (GCC) is issued upon attendance and satisfactory compliance to the program. The GCC is used as a pre-requisite for regular passport application of Filipinos leaving the country as spouses and partners of foreign nationals, as provided for by the Department of Foreign Affairs' Department Orders No. 15-89, 28-94 and 11-97. Upon leaving the country to join their foreign partners or spouses overseas, Filipinos are required to present the said certificate to the Philippine's Bureau of Immigration counter at the airport.
3. The GCP was institutionalized to address growing concerns on the mail-order spouse scheme and cases of human trafficking in the guise of marriage. The GCP was strengthened with the passage of the Republic Act No. 10364 or the Expanded Anti-Trafficking in Persons Act of 2012 and Republic Act 10906 or the Anti-Mail Order Spouse Law which mandated CFO to conduct pre-departure counseling services for Filipinos in intermarriages.
4. Latest CFO records show that from 1989 to 2015, majority of the marriage migrants are female (91.4%). Out of the 499,436 marriage migrants registered with CFO, 456,471 or 91.4% are female while 42,965 or 8.6% are male. The United States consistently emerged as the top destination of spouses and partners accounting for 43.26%, followed by Japan (24.19%) and Australia (7.90%). More than half or 53.91% of the Filipino spouses or partners have limited knowledge about the country of their foreign spouses or partners; while 11.13% of them have no knowledge at all. Only 34.96% professed to have sufficient prior knowledge of their destination country. Most of spouses and partners are from the age bracket of 25-29 years old which is 30.70% of the total number, followed by 20-24 years old (23.89%) and 30-34 years old (19.73%).

5. While CFO does not have official data of divorced Filipinos in intermarriages, it has a database of foreign spouses / fiancées / partners who have sponsored Filipinos more than once for marriage or common-law partnership. CFO also received reported cases of Filipinos divorced or abandoned by their foreign spouses. In some instances, Filipino spouses become victims of trafficking in the guise of marriage.
6. In Japan, nearly a third of marriages between Japanese nationals end up in divorce. For Japanese nationals married to foreign spouses, majority (2/3) of marriages end up in divorce. Majority of divorce is also by mutual agreement, meaning the divorce does not go through any judicial or court proceedings. The divorce by agreement only has to be registered at the municipal office provided that the registration documents have been properly signed and sealed beforehand by both parties.
7. We are thus pleased to provide the Committee with the following inputs to House Bill No. 6446 (in bold and underlined):

- ***On the Title***

*An Act Recognizing the Capacity of the Filipino Spouse to Remarry When the Alien Spouse has Obtained ~~A Foreign Judicial Decree Of Absolute~~ Divorce **ALLOWED IN ACCORDANCE WITH THE LAWS OF THE COUNTRY OF THE FOREIGN SPOUSE**, Amending for the Purpose Executive Order No. 209, Otherwise Known As The Family Code of the Philippines*

This is in recognition of the validity of divorce in other countries obtained through non-judicial procedure (including divorce by mutual agreement), in accordance with their laws and based on nationality principles.

- ***On Section 1 amending Article 13 of Executive Order No. 209 or the Family Code of the Philippines***

Art. 13. In case either of the contracting parties has been previously married, the applicant shall be required to furnish, instead of the birth or baptismal certificate required in the last preceding article, the death certificate of the deceased spouse or ~~the judicial decree of the absolute~~ **VALIDLY ACCEPTED PROOF** of divorce obtained by the alien spouse duly authenticated by the Philippine consul where the divorce was obtained, or the judicial decree of annulment or declaration of nullity of his or her previous marriage.

The Filipino spouse need not seek judicial recognition or enforcement of the ~~foreign judicial decree of absolute~~ **DULY AUTHENTICATED** divorce and its registration by the civil registrar shall be sufficient for the issuance of a marriage license.

- ***In addition, CFO also proposes an amendment to Article 38 of the Family Code that will give consideration for survivors of mail-order spouse scheme and trafficking in the guise of intermarriage which is consistent with public policy.***

Art. 38. The following marriages shall be void from the beginning for reasons of public policy:

- (1) Between collateral blood relatives whether legitimate or illegitimate, up to the fourth civil degree;
- (2) Between step-parents and step-children;
- (3) Between parents-in-law and children-in-law;
- (4) Between the adopting parent and the adopted child;
- (5) Between the surviving spouse of the adopting parent and the adopted child;
- (6) Between the surviving spouse of the adopted child and the adopter;
- (7) Between an adopted child and a legitimate child of the adopter;
- (8) Between adopted children of the same adopter; and
- (9) Between parties where one, with the intention to marry the other, killed that other person's spouse, or his or her own spouse.

(10) **BETWEEN A FOREIGN NATIONAL AND A FILIPINO SPOUSE FOR PURPOSES OF TRAFFICKING AND/OR MAIL-ORDER SPOUSE SCHEMES.**

- ***CFO also proposes an amendment to Article 45 that will give consideration for survivors of domestic violence consistent with public policy.***

Art. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

- (1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;

(2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;

(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;

(4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;

(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable; or

(6) That either party was afflicted with a sexually-transmissible disease found to be serious and appears to be incurable.

(7) **THAT THE FILIPINO SPOUSE OF A FOREIGN NATIONAL IS A VICTIM OF DOMESTIC VIOLENCE.**

**(8) THAT THE FILIPINO SPOUSE OF A FOREIGN NATIONAL IS A SURVIVOR OF HUMAN TRAFFICKING AS DEFINED BY R.A. 10364 OR THE EXPANDED ANTI-TRAFFICKING IN PERSONS ACT OF 2012 AND /OR A VICTIM OF THE MAIL-ORDER SPOUSE SCHEME AS INDICATED IN THE RA 10906 OR THE ANTI-MAIL ORDER SPOUSE ACT OF 2016.**