

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
1st Regular Session

House Bill No. 8360



**Introduced by Representatives PAOLO Z. DUTERTE, ERIC G. YAP,
and EDVIC G. YAP**

EXPLANATORY NOTE

Defining labor as the primary social economic force, the 1987 Constitution affirms the protection of the rights and promotion of welfare of workers. The said mandate encompasses not only workers in the country, but as well as the significant number of Filipinos working abroad.

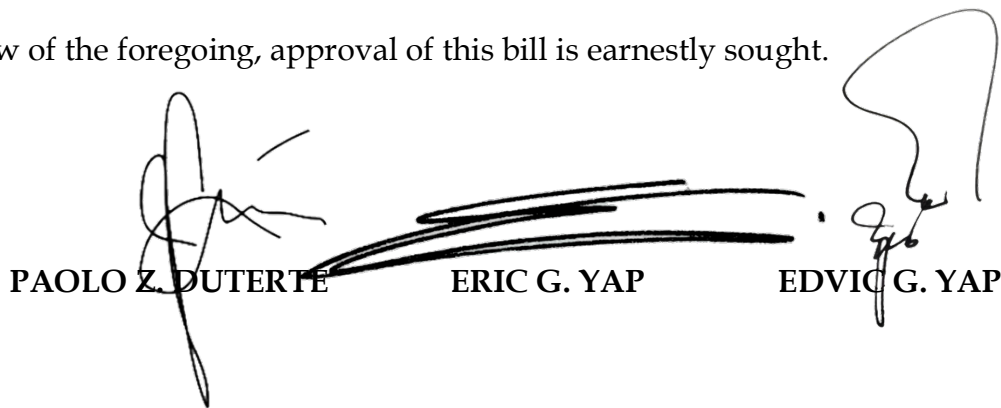
According to the International Labour Organization, 10 million Filipinos live abroad and more than 1 million Filipino leave the country each year to work abroad. Hence, while labor migration serves as a national thrust for economic growth, especially in the Philippines due to consistent increase in OFW remittances, Filipino migrants remain vulnerable to exploitation and abuse including contract violations, sexual harassment, violence and discrimination, and illegal recruitment.

Republic Act No. 8042 or the *Migrant Workers and Overseas Filipinos Act of 1995* defines illegal recruitment as “any act of canvassing, enlisting, contracting, transporting, utilizing, hiring, or procuring workers and includes referring, contract services, promising or advertising for employment abroad, whether for profit or not” that are deemed to be undertaken by non-licensee or non-holder of authority contemplated under the provisions of the Labor Code. However, despite recent legislations increasing penalty for the said crime, the Department of Migrant Workers still regarded illegal requirement as among the most pertinent issue in labor migration as

it highlights that “illegal recruiter could victimize an average of 500 aspiring overseas Filipino workers (OFWs) just in one day.”

As a response, this proposed measure seeks to strengthen the definition of illegal recruitment in the Labor Code by providing a more stringent requirement to what constitutes illegal recruitment by syndicate. Instead of three (3) conspirators, the proposed measure currently proposes that at least two (2) conspirators would now correspond to an illegal recruitment syndicate, which is tantamount to economic sabotage, and eventually, stricter and stiffer penalties.

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



PAOLO Z. DUTERTE ERIC G. YAP EDVIC G. YAP

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AN ACT
REDEFINING THE CRIME OF ILLEGAL RECRUITMENT COMMITTED BY A
SYNDICATE, AMENDING FOR THE PURPOSE ARTICLE 38 OF PRESIDENTIAL
DECREE NO. 442, OTHERWISE KNOWN AS THE "LABOR CODE OF THE
PHILIPPINES", AS AMENDED AND SECTION 6 OF REPUBLIC ACT 10022
OTHERWISE KNOWN AS THE MIGRANT WORKERS ACT, AS AMENDED

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Article 38 of Presidential Decree No. 442, otherwise known as the "Labor Code of the Philippines," as amended is hereby further amended to read as follows:

"Article 38. Illegal Recruitment. - (a) Any recruitment activities, including the prohibited practices enumerated under Article 34 of this Code, to be undertaken by non-licensees or non-holders of authority, shall be deemed illegal and punishable under Article 39 of this Code. Department of Labor and Employment or any enforcement officer may initiate complaints under this Article.

"(b) Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage and shall be penalized in accordance with Article 39 hereof.

"Illegal recruitment is deemed committed by a syndicate if carried out by a group of **TWO (2)** ~~three (3)~~ or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme defined under the first paragraph hereof. Illegal recruitment is deemed committed in large scale if committed against three (3) or more persons individually or as group."

"(c) The Secretary of Labor and Employment or his duly authorized representatives shall have the power to cause the arrest and detention of such non-licensee or non-holder of authority if after investigation it is determined that his activities constitute a danger to national security and public order or will lead to further exploitation of job-seekers. The Secretary shall order the search of the office or premises and seizure of documents, paraphernalia, properties and other implements used in illegal recruitment: activities and the closure of companies, establishments and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so."

SEC. 2. Section 6 of Republic Act No. 8042, otherwise known as the "Migrant Workers and Overseas Filipinos Act of 1995," as amended by R.A. 10022, is hereby further amended to read as follows:

"*SEC. 6. Definition.* - For purposes of this Act, illegal recruitment shall mean c otherwise known as the Labor Code of the Philippines: Provided, That any such non-licensee or non-holder who, in any manner, offers or promises for a fee employment abroad to two or more persons shall be deemed so engaged. It shall likewise include the following acts, whether committed by any person, whether a non-licensee, non-holder, licensee or holder of authority:

"(a) To charge or accept directly or indirectly any amount greater than that specified in the schedule of allowable fees prescribed by the Secretary of Labor and Employment, or to make a worker pay or acknowledge any amount greater than that actually received by him as a loan or advance;

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"(m) Failure to reimburse expenses incurred by the worker in connection with his documentation and processing for purposes of deployment, in cases where the deployment does not actually take place without the worker's fault. Illegal recruitment when committed by a syndicate or in large scale shall be considered an offense involving economic sabotage; and

"(n) To allow a non-Filipino citizen to head or manage a licensed recruitment/manning agency.

"Illegal recruitment is deemed committed by a syndicate if carried out by **TWO (2)** [~~three (3)~~] or more persons conspiring or confederating with one another. It is deemed committed in large scale if committed against three (3) or more persons individually or as a group.

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"The filing of an offense punishable under this Act shall be without prejudice to the filing of cases punishable under other existing laws, rules or regulations."

SEC. 3. *Separability Clause.* - If any provision or part hereof, is held invalid or unconstitutional, the remainder of the law or the provision not otherwise affected shall remain valid and subsisting.

SEC. 4. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent with the provision of this Act is hereby repealed, modified, or amended accordingly.

SEC. 5. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in two (2) newspapers of general circulation.

Approved,