

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH CONGRESS
First Regular Session

House Bill No. 91



Introduced by TUCP Partylist Representative
HON. RAYMOND DEMOCRITO C. MENDOZA

EXPLANATORY NOTE

The TUCP Party-list once again files the proposed “Strengthening Workers’ Right to Strike Bill,” which removes dismissal and/or imprisonment as penalties for an illegal strike or a strike that fails to comply with the procedural requirements of (a) notifying to the Department of Labor and Employment (DOLE), (b) engaging in bargaining, (c) observing the cooling off period, and (d) securing support from a majority of the union members, and one that defied an assumed labor dispute. The penalty of dismissal and/or imprisonment is too harsh and disproportionate, especially in the absence of a final determination of a crime that would warrant imprisonment under the Revised Penal Code of the Philippines. The Bill decriminalizes strike actions in removing the penalty of imprisonment and appropriately vests jurisdiction in the imposition of fines on the Secretary of Labor and Employment or the National Labor Relations Commission (NLRC).

The TUCP Party-list has repeatedly filed this legislative measure since the 14th Congress to address the country's long-standing non-conformity, both in law and in practice, with International Labour Organization (ILO) Convention Nos. 87 and 98. The immediate passage of this Bill, along with the other proposed measures, is urgently sought, as the country has been consistently ranked among the world's 10 worst countries for workers in the International Trade Union Confederation (ITUC) Global Rights Index for nine consecutive years since 2017. Notably, the country's compliance, both in law and in practice, has been regularly examined for substantial progress by the ILO Committee on the Application of Standards (CAS) and the Committee of Experts on the Application of Conventions and Recommendations (CEACR).

Strengthening labor rights and application of the country’s commitment on ratified ILO Conventions directly supports our whole-of-society efforts to position the Philippines as a competitive global investment hub where tariff-free access, foreign direct investments, and free trade agreements are increasingly tied to the protection of fundamental labor rights and international labor standards.

This Bill proposes to remove dismissal and/or imprisonment as penalties for participation or leading a strike subsequently declared illegal for failure to comply with procedural requirements, or one that defied an assumption order labor.

The harsh and disproportionate penalty blunt the effective exercise by the workers of their right to self-organization and collective bargaining. It is a “sword of Damocles” over the heads of union officers and members while they exercise their Constitutionally guaranteed rights to strike for their fair share in the fruits of production, and for just terms and conditions of employment.

This Bill is part of a series of proposed amendments to the Labor Code addressing the observations by the Committee of Experts of the ILO as highlighted by the ILO High-Level Mission (HLM) to the Philippines on 22-29 September 2009 and reiterated by the ILO High-Level Tripartite Mission (HLTMT) on 23-27 January 2023 on violations of freedom of association faced by Filipino workers.

Given the foregoing, the passage of this Bill is earnestly sought.


HON. RAYMOND DEMOCRITO C. MENDOZA
TUCP Partylist Representative

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AN ACT
STRENGTHENING THE WORKERS' RIGHT TO STRIKE, AMENDING
FOR THE PURPOSE ARTICLES 278[263](g), 279[264], and 287[272] OF
PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE KNOWN
AS THE LABOR CODE OF THE PHILIPPINES

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

SECTION 1. This Act shall be known as the “Strengthening Workers' Right to Strike Bill.”

SEC. 2. Article 278 [263] (g) of Presidential Decree (PD) No. 442, otherwise known as the Labor Code of the Philippines, as amended, is hereby further amended to read as follows:

“ART. 278 [263]. Strikes, Picketing, and Lockouts. –

(g) x x x x

In line with the national concern for and the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall, to every extent possible, be avoided, and all serious efforts, not only by labor and management but government as well, be exhausted to substantially minimize, if not prevent, their adverse effects on such life and health, through the exercise, however legitimate, by labor of its right to strike and by management to lockout. In labor disputes adversely affecting the continued operation of such hospitals, clinics or medical institutions, it shall be the duty of the striking union or locking-out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to insure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike or lockout. In such cases, therefore, the Secretary of Labor and Employment may immediately assume, within twenty-four (24) hours from

knowledge of the occurrence of such a strike or lockout, jurisdiction over the same or certify it to the Commission for compulsory arbitration. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions, as are issued by the Secretary of Labor and Employment or the Commission, under pain of immediate disciplinary action, including ~~[dismissal or loss of employment status or]~~ payment by the locking-out employer of backwages, damages and other affirmative relief, ~~[even criminal prosecution against either or both of them].~~

SEC. 3. Third paragraph of Article 279[264] (a) of PD No. 442, as amended, is hereby further amended to read as follows:

"ART. 279 [264]. Prohibited activities – (a) xxx

x x x x

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. MERE PARTICIPATION OF A WORKER OR UNION OFFICER IN A STRIKE SUBSEQUENTLY DECLARED ILLEGAL FOR FAILURE TO COMPLY WITH THE PROCEDURAL REQUIREMENTS SPECIFIED IN THE PRECEDING FIRST AND SECOND PARAGRAPHS OF THIS ARTICLE SHALL NOT BE A GROUND FOR TERMINATION OF EMPLOYMENT, EVEN IF A REPLACEMENT HAD BEEN HIRED BY THE EMPLOYER DURING THE STRIKE. ~~[Any union officer who knowingly participates in an illegal strike and any]~~ ANY worker or union officer who knowingly participates in the commission of ~~[illegal]~~ A CRIME during a strike ~~[may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.]~~ SHALL BE ACCORDED DUE PROCESS AND HEARD, AFTER THE REQUIRED CLEARANCE FROM THE DEPARTMENT OF LABOR AND EMPLOYMENT ON CASES ARISING OUT OF OR RELATED TO A LABOR DISPUTE, BEFORE THE COURT OF APPROPRIATE JURISDICTION."

SEC. 4. Article 287 (a) of PD No. 442, as amended, is hereby further amended to read as follows:

"ART. 287. Penalties. – (a) Any person violating any of the provisions of Article 279[264] of this Code shall be punished by a fine of not less than ~~[one]~~ TEN thousand pesos ~~[(P1,000.00)]~~ (P10,000.00) nor more than ~~[ten]~~ ONE HUNDRED thousand pesos ~~[(P10,000.00)]~~ (P100,000.00) ~~[and/or imprisonment for not less than three months nor more than three (3) years, or both such fine and imprisonment,]~~ at the discretion of the SECRETARY OF LABOR AND EMPLOYMENT OR NATIONAL LABOR RELATIONS COMMISSION (NLRC)

~~[court]. [Prosecution under this provision shall preclude prosecution for the same act under the Revised Penal Code, and vice versa.]"~~

SEC. 5. Within fifteen (15) days from the effectivity of this Act, the Secretary of Labor and Employment shall promulgate the rules and regulations for its effective implementation.

SEC. 6. If any provision of this Act is declared unconstitutional or invalid, the other provisions hereof shall remain in full force and effect.

SEC. 7. Any law, issuance, or parts thereof inconsistent with this Act are hereby modified accordingly.

SEC. 8. This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,