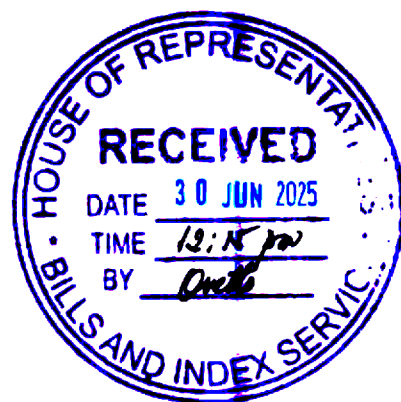




Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH (20TH) CONGRESS
First Regular Session

HOUSE BILL NO. 98



Introduced by KAMANGGAGAWA Partylist
Representative **ELIJAH R. SAN FERNANDO**

EXPLANATORY NOTE

The 1987 Constitution discerningly safeguards the rights of Filipino workers to self-organization, as enshrined in Article XIII, Section 3, stating that:

“The State shall afford full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law.”

Moreover, workers’ rights are further reinforced by the International Labor Organization (ILO) Conventions No. 87 (1948) and No. 98 (1949), or the “*Freedom of Association and Protection of the Right to Organize Convention*” and the “*Right to Organize and Collective Bargaining Convention*”, respectively, both duly ratified by the Philippines on December 29, 1953.

Despite these constitutional and international guarantees, there exist measures that contradict the safeguards that should warrant the protection of workers’ rights in the Philippines — particularly the exercise of Assumption of Jurisdiction.

Assumption of Jurisdiction (AJ) is the authority of the Department of Labor and Employment (DOLE) Secretary to assume jurisdiction in settling labor disputes and utilize law enforcement in the delivery of such, in industries regarded as “vital to national interest”¹. This mechanism takes away the capacity of workers to use strikes to defend

¹ Paragraph (g) of Article 278, Labor Code of the Philippines, as amended and renumbered. (2022)

their rights. Instead, AJ has become an anti-worker policy weaponized by mobilizing police power² to suppress workers who resist this order.

Assumption of Jurisdiction also authorizes DOLE to issue a “return to work order” or RTWO, obligating all striking or locked-out workers to return to work and resume operations³, under the threat of termination. Notice of strikes following a declaration of AJ is also prohibited⁴, and participation in illegal strikes is punishable by imprisonment^{5||6]} – indicating an obligation to perform labor. This runs counter to ILO’s Convention on Abolition of Forced Labor⁷, which prohibits the imposition of compulsory labor, including compulsory prison labor, on persons participating peacefully in a strike. Further, ILO’s Committee of Experts on the Application of Conventions and Recommendations (CEACR) ruling⁸ also fortifies that the exercise of Assumption of Jurisdiction and its components clearly violates ILO Convention Nos. 87 and 98, despite being ratified by the Philippines.

The current practice of invoking AJ in the Philippines has become not only a measure contravening the provisions of the highest law of the land and international standards, but also a tool to repress legitimate labor movements.

AJ curtails the constitutionally mandated right to self-organization, collective bargaining, and negotiations. It is not the solution to resolving labor disputes. It is only a means to intimidate and confine workers while justice is being delayed.

This bill seeks to repeal the provision of AJ in Article 278 of the Labor Code and recommit to genuinely upholding workers’ welfare and rights, especially their right to freedom of association as enshrined in Article XIII, Section 3 of the 1987 Constitution. Workers’ rights are non-negotiable and must always take priority over profit.

In solidarity with the working class, the passage of this bill is earnestly sought.



ELIJAH R. SAN FERNANDO
Representative
KAMANGGAGAWA PARTYLIST

² Section 5, DOLE Department Order No. 40-H-13. (2013)

³ Ibid., Section 1.

⁴ Article 279, Labor Code of the Philippines, as amended and renumbered. (2022)

⁵ Ibid., Article 287.

⁶ Article 146, Revised Penal Code. (1930)

⁷ ILO Convention No. 105. (1957)

⁸ CEACR Report No. 346. (2007)



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

TWENTIETH (20TH) CONGRESS
First Regular Session

HOUSE BILL NO. 93

Introduced by KAMANGGAGAWA Partylist
Representative **ELIJAH R. SAN FERNANDO**

AN ACT
REPEALING THE PROVISION OF ASSUMPTION OF JURISDICTION UNDER
PARAGRAPH G, ARTICLE 278 OF PRESIDENTIAL DECREE NO. 442, AS
AMENDED, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES

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

SECTION 1. *Repeal of Assumption of Jurisdiction.* – Paragraph (g) of Article 278 of Presidential Decree No. 442, as amended, otherwise known as the “Labor Code of the Philippines”, is hereby repealed.

SEC. 2. *Amendments to the Labor Code of the Philippines.* – Paragraph (i) of Article 278 and Paragraph (a) of Article 279 of Presidential Decree No. 442, otherwise known as the Labor Code of the Philippines, as amended and renumbered, are hereby amended to declare as follows:

“ART. 278. Strikes, Picketing, and Lockouts. – (a) It is the policy of the State to encourage free trade unionism and free collective bargaining.

XXX

(i) The Secretary of Labor and Employment, the Commission or the voluntary arbitrator or panel of voluntary arbitrators shall decide or resolve the dispute within thirty (30) calendar days from the date of [assumption of jurisdiction or] the certification or submission of the dispute, as the case may be. The decision of the President, the Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall be final and executory ten (10) calendar days after receipt thereof by the parties.

ART. 279. Prohibited activities. – (a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.

No strike or lockout shall be declared after [assumption of jurisdiction by the President or the Minister or after] certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full backwages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts 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.

XXX”

SEC. 3. Separability Clause. – If any provision of this Act is declared unconstitutional or invalid, the remaining provisions shall remain in full force and effect.

SEC. 4. Repealing Clause. – All laws, decrees, executive orders, rules, and regulations inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 5. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,