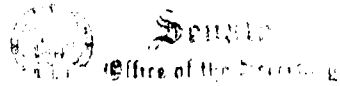


SEVENTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



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SENATE

SENATE BILL No. 961

BY:

Introduced by **SENATOR LEILA M. DE LIMA**

**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 NO. 8042, OTHERWISE KNOWN AS THE “MIGRANT
WORKERS AND OVERSEAS FILIPINOS ACT OF 1995,” AS AMENDED**

EXPLANATORY NOTE

Illegal recruitment is a menace to the society. It is one of the most detestable crimes a Filipino can commit to another Filipino, a crime that has brought about sufferings to thousands of poor and innocent victims and their families. Their victims, who dreamed of landing high paying jobs abroad, instead find themselves financially and emotionally distressed. Worse, some of them landed in jails as a consequence.

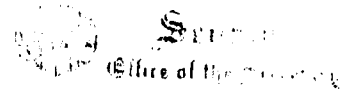
Illegal recruitment is generally perpetrated by a syndicate, a term defined in our jurisdiction as a group of three or more persons formed with the intention of carrying out any or illegal transaction, enterprise or scheme. Over the years, collective efforts against illegal recruitment has been one of the major activities of several government offices, particularly the Department of Labor and Employment (DOLE), the Philippine Overseas and Employment Administration (POEA), the Philippine National Police (PNP) and the National Bureau of Investigation (NBI), and the Non-Government Organizations (NGO). They work hand in hand to eradicate illegal recruitment activities. For its part, Congress enacted Republic Act No. 8042 which broadened the concept of illegal recruitment under the Labor Code and provided stiffer penalties, especially for those that constitute economic sabotage, i.e., Illegal Recruitment in Large Scale and Illegal Recruitment Committed by a Syndicate. Thus, at present, the crime of illegal recruitment is deemed committed by a syndicate, both under Art. 38 of PD 442 or the “Labor Code of the Philippines” and RA 8042 or the “Migrant Workers and Overseas Filipinos Act of 1995,” if carried out by a group of three (3) or more persons conspiring or confederating with one another.

Despite government campaigns and stiffer penalties imposed, illegal recruitment continues to proliferate. Every year hundreds of victims still fall prey to illegal recruiters.

Under the present set up, persons accused of illegal recruitment by a syndicate may evade the penalty of life imprisonment and a fine of not less than Two million pesos (₱2,000,000.00) nor more than Five million pesos (₱5,000,000.00) as provided under R.A. No. 8042, as amended by R.A. No. 10022, by simply alleging that the victim failed to establish that the crime was carried out by a group of three (3) or more persons conspiring or confederating with one another. Thus, this proposed bill seeks to amend the definition of syndicate by lowering the number of perpetrators from three to two persons to qualify the act as illegal recruitment by a syndicate.

In view of the foregoing, the passage of this bill is earnestly requested.


LEILA M. DE LIMA



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SENATE

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REC

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Introduced by **SENATOR LEILA M. DE LIMA**

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WORKERS AND OVERSEAS FILIPINOS ACT OF 1995,” AS AMENDED

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

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

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

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

13 “Illegal recruitment is deemed committed by a syndicate if
14 carried out by a group of **TWO (2)** [three (3)] or more persons

1 conspiring and/or confederating with one another in carrying out
2 any unlawful or illegal transaction, enterprise or scheme defined
3 under the first paragraph hereof. Illegal recruitment is deemed
4 committed in large scale if committed against three (3) or more
5 persons individually or as group.”

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

17 **SEC. 2.** Section 6 of Republic Act No. 8042, otherwise known as the
18 “Migrant Workers and Overseas Filipinos Act of 1995,” as amended by RA 10022, is
19 hereby further amended to read as follows:

20 *“SEC. 6. Definition. - For purposes of this Act, illegal*
21 *recruitment shall mean any act of canvassing, enlisting, contracting,*
22 *transporting, utilizing, hiring, or procuring workers and includes*
23 *referring, contract services, promising or advertising for*
24 *employment abroad, whether for profit or not, when undertaken by*
25 *non-licensee or non-holder of authority contemplated under Article*

1 13(f) of Presidential Decree No. 442, as amended, otherwise known
2 as the Labor Code of the Philippines: Provided, That any such non-
3 licensee or non-holder who, in any manner, offers or promises for a
4 fee employment abroad to two or more persons shall be deemed so
5 engaged. It shall likewise include the following acts, whether
6 committed by any person, whether a non-licensee, non-holder,
7 licensee or holder of authority:

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

13 x x x

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

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

22 "Illegal recruitment is deemed committed by a syndicate if
23 carried out by **TWO (2)** [three (3)] or more persons conspiring or

1 confederating with one another. It is deemed committed in large
2 scale if committed against three (3) or more persons individually or
3 as a group.

4 x x x

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

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

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

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

Approved,