

NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)



23 JUL 20 P2:37

SENATE
S. No. 2332

RECEIVED BY

Introduced by Senator MARK A. VILLAR

AN ACT
REDEFINING THE CRIME OF ILLEGAL RECRUITMENT COMMITTED BY A SYNDICATE, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 442, OTHERWISE KNOWN AS THE LABOR CODE OF THE PHILIPPINES, AS AMENDED, AND REPUBLIC ACT NO. 8042, OTHERWISE KNOWN AS THE MIGRANT WORKERS AND OVERSEAS FILIPINOS ACT OF 1995, AS AMENDED

EXPLANATORY NOTE

The Philippines takes pride as one of the top labor-exporters in the world. A significant component of our GDP comes from OFW remittances. For this reason, OFWs are dubbed as modern-day heroes as the government recognizes their sacrifices when they choose to leave behind their domestic life in pursuit of greener pastures while contributing to our country's continuing growth.

Despite their significant contribution, many OFWs become victims of fraudulent recruiters. According to data, between the months of January and October 2021, over one thousand eight hundred (1,800) cases of illegal recruitment of overseas Filipino workers had been reported in the Philippines. With an average of five hundred (500) victims per day, the government needs to revisit its campaign against illegal recruitment. According to the Department of Migrant Workers, illegal recruitment schemes online victimize more vulnerable hopefuls every day. Despite the imposition of a harsher penalty, illegal recruitment by a syndicate remains a plague in society. According to a study of the Philippine Institute for Development Studies, the Philippines has a low percentage rate of seventeen percent (17%) when it comes to

prosecuting cases of illegal recruitment. It is a challenge to prosecute illegal recruitment cases by a syndicate due to the minimum number of persons provided in the law.

No less than the Constitution mandates the State to give full protection to labor, whether local and overseas. Towards this, the Labor Code of the Philippines and the Migrant Workers and Overseas Filipino Act of 1995, including their amendments, define and penalize the crime of illegal recruitment committed by a syndicate, which is illegal recruitment carried out by a group of three (3) or more persons conspiring or confederating with one another. Such grave offense deserves a grave penalty in relation to simple illegal recruitment. However, many unscrupulous recruiters escape the stiffer penalty simply by failing to prove that three (3) persons acted in concert to commit a crime.

This needs to change as it is not unlikely for two (2) persons ganging up on unsuspecting victims would do as much or even more damage than three (3) or more illegal recruiters. It is also easier for two (2) persons to commit acts of illegal recruitment online (e.g., posting of fake job advertisements on Facebook, use of fake websites or email, and collecting fees for non-existing overseas work). To protect our local and overseas workers and curb illegal recruitment activities, there is a need to amend the definition of syndicated illegal recruitment. This proposed bill seeks to amend P.D. No. 442 and R.A. No. 8042 and redefine the definition of illegal recruitment committed by a syndicate by lowering the required number of perpetrators from three (3) to two (2) persons, and by penalizing acts of illegal recruitment done online or electronically by two (2) persons. This bill shall also qualify illegal recruitment committed by a syndicate or in a large scale as economic sabotage.

It is time we take a stand. The government needs to send a message that the law will catch those who will harm our modern-day heroes and this bill is a step closer in protecting overseas Filipino workers from illegal recruiters.

Therefore, passage of this bill is earnestly sought.



MARK A. VILLAR

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

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

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

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

1 "Illegal recruitment is deemed committed by a syndicate if **(1)**
2 carried out by a group of three (3) or more persons conspiring and/or
3 confederating with one another in carrying out any unlawful or illegal
4 transaction, enterprise or scheme defined under the first paragraph
5 hereof[.]; **(2) IF THE OFFENDERS ARE NON-LICENSEES OR NON-**
6 **HOLDERS OF AUTHORITY AND THE ACT WAS CARRIED OUT BY**
7 **TWO (2) PERSONS; OR (3) IF CARRIED OUT BY TWO (2)**
8 **PERSONS, WHETHER LICENSEES OR HOLDERS OF AUTHORITY**
9 **OR NOT, CONSPIRING AND/OR CONFEDERATING WITH ONE**
10 **ANOTHER IN CARRYING OUT ANY OF THE PROHIBITED ACTS**
11 **ENUMERATED UNDER ARTICLE 34 HEREOF AND THE SAME WAS**
12 **DONE BY ANY MEANS OF ELECTRONIC OR INTERNET**
13 **COMMUNICATION.**

14 Illegal recruitment is deemed committed in large scale if
15 committed against three (3) or more persons individually or as group.

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

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

1 "SEC. 6. Definition. – For purposes of this Act, illegal recruitment
 2 shall mean any act of canvassing, enlisting, contracting, transporting,
 3 utilizing, hiring, or procuring workers and includes referring, contract
 4 services, promising or advertising for employment abroad, whether for
 5 profit or not, when undertaken by non-licensee or non-holder of authority
 6 contemplated under Article 13(f) of Presidential Decree No. 442, as
 7 amended, otherwise known as the Labor Code of the Philippines:
 8 Provided, That any such non-licensee or non-holder who, in any manner,
 9 offers or promises for a fee employment abroad to two or more persons
 10 shall be deemed so engaged. It shall likewise include the following acts,
 11 whether committed by any person, whether a non-licensee, non-holder,
 12 licensee or holder of authority:

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

18 XXX

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

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

27 **ILLEGAL RECRUITMENT WHEN COMMITTED BY A**
 28 **SYNDICATE OR IN LARGE SCALE SHALL BE CONSIDERED AN**
 29 **OFFENSE INVOLVING ECONOMIC SABOTAGE.**

