

**REPUBLIC OF THE PHILIPPINES
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila**

**FOURTEENTH CONGRESS
Third Regular Session**

House Bill No. 6921

Introduced by **KABATAAN Party-list Rep. Raymond V. Palatino**

EXPLANATORY NOTE

Delivered as Privilege Speech of Rep. Raymond Palatino on August 17, 2009.

Mr. Speaker, distinguished colleagues, I rise on behalf of fellow young Filipinos denied of their dreams and were forced to enter the illusory world of call centers.

The tale of Filipino youths setting aside their childhood dreams to enter the call center industry is fast becoming a common story. More and more young Filipinos are being lured into working in a call center regardless of their educational background. A starting salary of P15,000 on average is indeed attractive, not to mention the signing bonus and incentives for good work performance.

As the global financial crisis sweeps ominously into Asian shores, the Philippine government has continuously promoted and relied on the Business Processing Outsourcing (BPO) industry to provide opportunities to millions of jobless Filipinos. The number of jobs generated grew robustly from 99,000 workers in 2004 to 372,000 workers in 2008, most of them in their 20s.

For the government, the BPO sector is a major contributor in terms of revenues and employment generation. From \$350 million in 2001, revenues generated from the BPO sector surged to \$6 billion in 2008. The government was quick to conclude that the BPO sector is poised to benefit from the global recession.

This has prompted both the administration and the vanguards of globalization to brand the BPO sector as the “sunshine industry.”

But there is a need, Mr. Speaker, to bust the myth surrounding the so-called sunshine industry. For behind the seemingly innocuous statistics and improving figures lie tales of exploitation, false hopes, and dim working conditions inside the call center.

Totoong mas mataas ang tinatanggap na suweldo ng isang call center agent kumpara sa isang regular na manggagawa. In reality, foreign companies are exploiting our cheap labor. The average annual salary of a call center agent in the Philippines is \$3,964. This is lower

than Thailand's \$4,874, Malaysia's \$5,199, and Singapore's \$16,884. Kung totoong tayo ang binansagang "Offshoring Destination of the Year" noong 2007, bakit kakarampot lamang ang sahod ng call center agents natin kumpara sa ating mga kapitbahay?

Companies in developed countries benefit immensely from this set-up. By taking advantage of highly-skilled and low-value labor in poorer economies such as ours, foreign firms gain an estimated net savings of 20-40 percent on labor costs.

Despite the relatively decent pay and seemingly rich rewards, job tenure in the call center industry, as labor economist Clarence Pascual puts it, is "as transient as the phone calls that agents make or take."

This is evident in the industry's high attrition rates or the proportion of the workforce that leaves a company or industry. The Call Center Association of the Philippines pegs the turnover rate in the country at 60-80 percent, the highest in the world.

According to a multi-country survey conducted by Callcentres.net, full-time call center agents stay in a contact center for a brief 22 months, while part-time agents stay for an even shorter 10 months.

This is an international figure, Mr. Speaker. In the Philippines, where most of the call centers are outsourced, offshore and non-unionized, the situation is even worse: 60 percent of call center workers stay in a company for only a year or less.

As more employees leave the industry, the demand for replacements becomes constant. According to an article in Newsbreak magazine, for every employee hired to fill in a new seat, another two employees must be hired to replace the seats vacated by those who left. How apt, Mr. Speaker, that this industry is marked by "hellos" and "goodbyes."

The culprit: poor quality of jobs at the call center. A survey by the Call Center Project based at Cornell University in New York shows that the high attrition rate is caused by a low job quality in call centers. The study revealed that 67 percent of agents found in 39 percent of call centers work in low to very low quality jobs.

The Call Center Project survey points out that worker turnover and quit rates are higher as job discretion or the agent's "sense of control" becomes lower and monitoring on the job becomes more intense. Low job discretion and high performance monitoring contribute to employee stress and rapid job burnout.

Mr. Speaker, distinguished colleagues, the job of a call center agent is not that all fancy nor ideal. For it is in the very nature of the call center job to be exploitative.

Call centers-vendors in industry parlance-provide services, such as customer service, sales, technical support, on behalf of client companies. They compete for accounts from companies that outsource some of their functions. In this competitive arena, the agent is stuck between two contrasting interests-he or she must keep costs low for the client while ensuring profits for the call center.

In this set-up, quantitative targets are laid down by clients to reduce costs and increase productivity, giving them the upper hand. In the call center industry, everything is measured.

Thus, call center agents work the phones for the entire duration of their work shift. Unlike our jobs, where we have time to read newspapers or chat with our officemates, the job of a call center agent is one of isolation. The calls just keep coming in, and one has no choice but to pick up to phone.

Moreover, one faces punitive measures, such as forced leave, suspension or even termination, for failing to meet productivity targets, which serve as basis for staff assessment and promotions.

To ensure the targets are met, clients even enforce remote monitoring of actual calls. Supervisors track an agent's use of time, from call handling time to time spent on "after call work" and break time. Recorded calls are scored for quality on a monthly or weekly basis. A low score translates to a corrective action memo, which can cost one's job. Consequently, monitoring becomes a constant source of anxiety for workers.

Since monitoring and evaluation are done remotely, penalized workers do not have enough opportunity to appeal disciplinary actions. A 22-year old agent says in their company, even tenured workers issued with corrective action memos get terminated.

According to a survey by the Ecumenical Institute for Labor Education and Research, only a 10-minute per day period is allowed for personal use, such as going to the restroom. This becomes difficult for the workers since a cold workplace temperature encourages frequent urination. Female agents, thus, usually suffer from urinary tract infection.

Since the United States is the biggest market of BPO industry, this requires call center operations during the evening. The call center sub-sector is changing the nightlife of Manila. Bars, restaurants and convenience stores are open every morning to accommodate the night workers.

But the graveyard shift has become a major source of difficulty and dissatisfaction for a lot of agents as their day-to-day routines are turned upside down. Medical specialists point out that disrupting the body clock can cause manic depression and heart problems.

Weekends and holidays are also rarely off, since the calendar being followed is that of the clients, resulting in very rare family time for married agents. Meanwhile, compulsory overtime or extended time is also prevalent.

The Department of Health has warned against this work schedule, aggravated by an intense and exhaustive workload. DOH warned that persons working in the graveyard shift are vulnerable to various diseases, including hypertension, cardiovascular illnesses, tuberculosis and sexually transmitted diseases. Foreign studies have even shown that graveyard shifts can increase the risk of cancer among women workers.

Noong isang taon, Mr. Speaker, ibinalita sa TV Patrol World ang pagkamatay ng isang call center agent. Siya ay si Dingdong Flores, inatake ng hypertension habang nasa trabaho. Siya ay na-coma bago pa mahatid sa ospital.

The DOLE has made separate studies on health risks associated with call center work. Both studies show high incidence of eyestrains symptoms, musculoskeletal symptoms, voice disorders, hearing problems.

Since most call centers employ first-time and young workers who are hesitant to complain, these health problems may even be an underestimation of the true state of health among workers.

Such health hazards explain high rates of absenteeism in the industry. Consequently, call centers have adopted punitive attendance policies. In some call centers, eight absences over a six-month period constitute grounds for termination.

While they are entitled to sick leave, workers find difficulty in securing the supervisor's approval.

BPO employees are also deprived of socialization opportunities with family and friends. Dr. Prandya Kulkarni, who writes for United Press International Asia, adds that young BPO workers, who receive high salaries, do not have the maturity and emotional capability to handle their wealth. This "sudden wealth syndrome" has led to such high-risk behaviors as loose sexual practices, drug addictions and alcohol abuse.

Another alarming reality in the call center industry is the absence of unions. Unionism is covertly and overtly discouraged, if not forbidden. Foreign employees warn that if unions in call centers will be allowed, they will leave the Philippines. Workers' contracts clearly stipulate that forming or joining a union is prohibited.

Such a repressive practice, Mr. Speaker, is a clear violation of the Philippine Labor Law, where it is stated that every worker has the right to form and join a union. Isn't it ironic, Mr. Speaker, how our call center workers are rendered voiceless in a voice industry?

Habang inilalahad natin ang mga suliraning ito, habang inihahanda natin ang ating mga sarili sa pagtatapos ng araw na ito, magsisimula pa lamang ang araw ng libu-libo nating manggagawa sa call center. Nawa'y huwag dumating ang panahon na ang isasagot ng ating mga kabataan sa tanong na "What do you want to be when you grow up?" ay maging isang call center agent.

Anong klaseng mga mamamayan ang mahuhubog ng sistemang ito? Anong klase ng kaalaman ang ating ikikintal sa ating mga kabataan, na siyang mamumuno sa ating bayan? Paano nila paglilingkuran ang bayan kung ang tangi nilang alam ay tumugon sa daing ng mga dayuhan?

Nakakabahala, Mr. Speaker, ang kuwento ng isang manggagawa na tatlong taon nang nagtrabaho sa call center. Ayon sa kaniya, “a plague is raging among the youth working in the call center industry” and that is apathy. Dagdag niya, nabubuhay ang mga call center agent sa isang mundong batbat ng kawalang-pakialam. Ang tangi nilang sinusod ay ang dikta ng orasan, ang dikta ng makina. Tila hindi na sila kabahagi sa mga isyung panlipunan.

Sa kasalukyan, kinakaharap ng BPO industry ang kakulangan ng skilled workers, ng mga kabataang mahusay mag-Ingles. The government is now tinkering with the educational system to address the needs of the BPO industry. President Arroyo has mandated the use of English language as the medium of instruction in schools.

But such measures can only do so much to address employment problems in the country.

At the minimum, the government should ensure the implementation of our labor code, which aims to protect our workers and guarantee their right to organization and humane working conditions.

Call centers should respect our labor code. Bukod sa pagtuturo ng American accent, dapat ding ipaalam ng mga kumpanyang ito sa ating mga aplikante ang kanilang mga karapatan bilang empleyado.

Ngayong nauuso ang call centers, napapanahong bumuo tayo ng batas na magtitiyak sa kanilang mga karapatan. Sa kagyat, ito ang ating maiiambag sa libu-libong kabataang pinasok at balak pasukin ang BPO industry.

The government should not use the seemingly rosy statistics of the BPO sector to conclude that we have a strong economy. Ultimately, it is dangerous to exaggerate the importance of the BPO industry. The government should put more emphasis on propelling the domestic economy as a whole rather than making public institutions and laws serve the needs of BPO companies.

Thank you Mr. Speaker, distinguished colleagues.

Hon. Raymond V. Palatino
Representative, KABATAAN Party-list

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Introduced by **KABATAAN Party-list Rep. Raymond V. Palatino**

AN ACT
ENSURING THE WELFARE AND PROTECTION OF BUSINESS PROCESS OUTSOURCING (BPO)
WORKERS AND THE RECOGNITION OF THEIR RIGHTS AS PROVIDED FOR IN 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. *Short Title.* – This Act shall be known as the “BPO Workers’ Welfare and Protection Act of 2009”

SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the State to protect the welfare, and promote the rights of workers in the Business Process Outsourcing (BPO) industry and to take appropriate steps to recognize such rights and welfare. The State recognizes the role of BPO workers in nation-building and that protecting and promoting their rights and welfare form an integral part of national development strategies. The State shall strive to improve and promote their social and economic status, living and working conditions, terms of employment, professional growth and career development.

SECTION 3. *Definition of Terms.* – As used in this Act, the following terms shall be construed to mean as follows:

- (a) “Business Process Outsourcing (BPO)” – BPO refers to the contracting of third party service providers the operations of several business processes or functions
- (b) “Call Center” / “Contact Center” – refers to a central customer service operation where agents or customer care specialists or customer service representatives handle business-related telephone calls and other IT-related activities on behalf of a client

- (c) “Employee” / “Workers” – includes all persons who are in the employment of a BPO company such as, but are not limited to, contact/call center agents, medical transcriptionists, back-office processing employees, game developers, and animation and digital content providers.
- (d) “Employer” – includes all natural and juridical persons engaged in the business of BPO and employing the services of BPO employees
- (e) “Supervisor” / “Team Leader” – persons engaged in the management of a group or team of BPO workers

SECTION 4. *Coverage.* – This Act shall cover all employees and workers engaged in the Business Processing Outsourcing industry.

SECTION 5. *Standard of Treatment.* – The employer and the supervisors must, at all times, treat the BPO worker in a just and humane manner and ensure and provide that rights and benefits of BPO workers be accorded them as mandated by Presidential Decree 442, otherwise known as the Philippine Labor Code. Abusive language, physical violence or any act which debases the dignity of a person shall not be used against the employee.

SECTION 6. *Access to Relevant Information.* – The State shall ensure that BPO companies allow their workers and employees access to relevant information to make them understand their rights, benefits, obligations, conditions and realities attending to their profession. BPO companies shall not restrain their employees from organizing or attending activities, such as, but are not limited to, workshops and symposia, that seek to equip BPO workers with relevant information with regard to their rights, welfare and conditions.

SECTION 7. *Protection from Understaffing or Overloading.* – There shall be no understaffing or overloading of BPO workers. The ratio of BPO worker to client quota or quantitative targets shall be such as to reasonably effect a sustained quality of service at all times without overworking the worker and over-extending his/her services beyond what is stipulated in the employment contract, or what is allowed as the worker’s regular hours of work. The employer may request the employee to perform tasks beyond the duties stipulated in the employment contract; *Provided,* That the employee consents and; *Provided,* That such tasks are duly compensated by the employer with an additional pay of not less than 25% of the regular rate per hour.

SECTION 8. *Right to Self-Organization, to engage in Collective Bargaining, and to participate in Democratic Exercises.* – The State shall ensure BPO Workers’ right to join, organize, or assist organizations or unions, to collective bargaining and to participate in the deliberation of issues and in the formulation of policies that affect them.

SECTION 9. *Freedom from Interference or Coercion.* – It shall be unlawful for any person or company to commit any of the following acts of interference or coercion:

- (a) to require as condition of employment that BPO employees shall not join, form or assist in the formation of an organization or union;
- (b) to discriminate in order to encourage or discourage membership in an organization or union;
- (c) to prevent a BPO employee from carrying out his duties and functions in his organization or union or to penalize the employee for any lawful action performed in that capacity;
- (d) to perform acts calculated to diminish the independence and freedom of the union or organization to direct its own affairs.

SECTION 10. *Freedom from Company Bond.* – It shall be unlawful for any person or company to compel a BPO worker to commit to a company bond, imposing an exorbitant fee to be paid by the employee upon leaving the company before a specified length of time.

SECTION 11. *Protection from Discrimination.* – BPO workers shall be protected from discrimination by reason of sex, sexual orientation, age, political or religious beliefs, civil status, physical characteristics or disability, or ethnicity.

SECTION 12. *Safeguards in Administrative Proceedings.* – In any administrative proceeding, a BPO worker shall have:

- (a) the right to be informed of the charges;
- (b) the right to full access on evidence against him/her;
- (c) the right to defend himself/herself or by a counsel of his/her choice;
- (d) the right to be given adequate time to prepare his/her case, which shall in no case be less than one week;
- (e) the right to appeal to designated authorities;
- (f) such other rights as will ensure fairness and impartiality during proceedings.

SECTION 13. *Regular Hours of Work.* – Normal hours of work for BPO workers shall not exceed eight (8) hours a day. Any work done by BPO employees beyond the regular hours of work shall be duly compensated by the employer.

SECTION 14. *Overtime Work.* – BPO workers may be required to render services beyond his/her required working hours in cases provided for in the Labor Code; *Provided,* That the employee is paid for the overtime work with an additional compensation equivalent to not less than his regular wage plus twenty-five percent (25%).

SECTION 15. *Night Shift Differential.* – BPO workers shall be paid a night shift differential of not less than ten percent (10%) of his regular wage for each hour of work performed between ten o'clock in the evening and six o'clock in the morning.

SECTION 16. *Rest & Meal Periods.* – BPO workers shall be entitled to compensable rest periods and meal periods not less than what is provided for in the Labor Code and other existing laws. Employees shall not be disallowed from taking brief restroom breaks during their working hours.

SECTION 17. *Regular Working Days.* – All BPO workers shall render work for not more than six (6) consecutive days per week. While the specific day of the week set aside as rest day may be stipulated in the employment contract, the same may be changed for another day of the week upon the mutual agreement of the employer and the employee; *Provided,* That the employer shall respect the preference of the employee for his/her weekly rest day when said preference is based on religious grounds.

SECTION 18. *Work on Holidays.* – BPO workers may be required to work on days designated as non-working holidays in the Philippines granted the nature of their profession; *Provided,* That the employer shall duly compensate the employee's work on such days in accordance to existing laws with regard to holiday pay.

SECTION 19. *Leave Benefits.* – BPO workers shall be entitled to all leave benefits and privileges, such as but not limited to maternity, paternity, vacation and sick leaves, as provided for under existing laws: *Provided,* That upon separation of the employee from service, they shall be entitled to all accumulated leave credits with pay. No employee may

be terminated based solely on unapproved leaves without affording the employee due process in an administrative proceeding.

SECTION 20. *Transportation Benefits.* – In the absence of or in the lack of safe and adequate public transportation services in BPO workers' places of work, they shall be entitled to safe transportation service, which may include, but are not limited to shuttle services, to and from the place of work to designated drop-off points, to be provided by the company in order to facilitate the safe commute of employees at vulnerable times at night or early in the morning.

SECTION 21. *Medical Examination and Treatment.* – BPO workers shall be entitled to a medical examination free of charge upon entry in the BPO company and every year thereafter during his/her tenure of employment. They shall also be compensated for injuries and medical complications arising from and related to their work in accordance to existing laws, labor policies, guidelines or circulars as the case may be.

SECTION 22. *Workplace Policy on Occupational Safety and Health* – An occupational safety and health policy shall be formulated by each BPO establishment addressing the safety and health concerns in BPO workplaces and worksites, in accordance with the Occupational Safety and Health Standards (OSHS) and other related OSH issuances.

SECTION 23. *Security of Tenure.* – No employee may be terminated except for just cause as may be provided by the Labor Code and other existing laws and after due process in an administrative proceeding as provided for in this Act.

SECTION 24. *Prohibition Against Elimination or Diminution of Benefits.* – Nothing in this Act shall be construed to eliminate or diminish in any way existing benefits being enjoyed by BPO employees at the time of the effectivity of this Act, or benefits beyond the minimum standards set forth by this Act.

SECTION 25. *Penal Provision.* – Any person or company who violates the provisions of this Act shall be punished with a fine of not less than Ten Thousand Pesos (P10,000) and/or imprisonment of not less than two (2) months but not more than one (1), or both at the discretion of the Court.

SECTION 26. *Separability Clause.* – If any provision of this Act is declared unconstitutional or invalid, the remainder thereof not affected thereby shall continue to be in full force and effect.

SECTION 27. *Repealing Clause.* – All laws, ordinances, rules and regulations, other issuances or parts thereof which are inconsistent with this law are hereby repealed or modified accordingly.

SECTION 28. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in at least two newspapers of general circulation.

Approved,