
| RESEARCH ARTICLE

Labor Policies and Implications in the Philippine Settings

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| ABSTRACT

The study determines the implications of labor laws from the 1987 Philippine constitution up to the implementation of labor laws to the lives of both the capitalist and working sectors. This time immemorial clashes between the labor groups and the owners of the businesses persist today even to the modern industrial economic countries and more so to the developing countries like the Philippines. Through a number of policies, the government adopted and tried to equalize the relationship between the capitalist and working groups. It is a common legal maxim that *"don't kill the hen that lays the golden eggs,"* this pertains to the rights of the business because they contribute this much to the development of the economy. The Supreme Court of the Philippines, in a case, held that the job or work of the employee is considered property within the context of the law; hence it may not be taken from him without due process of law. These policies anchored impliedly with the famous quotes of the late President Magsaysay that *"Those who have less in life should have more in law."* The research used a case study method to determine the implications of these labor policies to the labor and enterprise sectors. The objectives of the study are the following: What are the bases of Philippine Labor laws? How does the government implement labor laws? What are the effects of labor laws on the workers and businesses? What are the benefits of government, private enterprise, and the labor sectors? The finding of the study: Government must give equal opportunities and incentives for local and foreign companies in the light of ASEAN 2015. The government must secure the preference of Filipino workers over other nations. Revisit the law that encourages the business to include the workers in the policymaking process. The government must strictly watch over the widespread abuse of contracts in order to avoid the regularization of employees. The study will present the legal bases of the policies on labor through the available data, primarily government documents. The scope of the research concentrates on the policies affecting the business and labor sectors to compare and analyze through the records, media interviews and jurisprudence. A case study is appropriate for this study because researchers have used the case study research method for many years across a variety of disciplines. Social scientists, in particular, have made wide use of this qualitative research method to examine contemporary real-life situations and provide the basis for the application of ideas and extension of methods. Researcher Robert K. Yin defines the case study research method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident. Multiple sources of evidence are used (Yin, 1984, p. 23).

| KEYWORDS

Social policy, PDP, LEP, Admin. Code, Global Economy, Investment Policy

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1. Introduction

The study determines the implications of labor laws from the 1987 Philippine constitution up to the implementation of labor laws to the lives of both the capitalist and working sectors. This time immemorial, clashes between the labor groups and the owners of the businesses persist today even to the modern industrial economic countries and more so to the developing countries like the Philippines. Through a number of policies, the government adopted tried to equalize the relationship between the capitalist and working groups. It is a common legal maxim that *"don't kill the hen that lays the golden eggs,"* this pertains to the rights of the business because they contribute this much to the development of the economy. The Supreme Court of the Philippines, in a case, held that the job or work of the employee is considered property within the context of the law; hence it may not take from him without due process of law. These policies anchored impliedly with the famous quotes of the late President Magsaysay that *"Those*

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who have less in life should have more in law." The State through its government, acknowledges the rights of these two social forces of the society when it declared through the court that "Social justice is neither communism, nor despotism, nor atomism, nor anarchy, but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion of the welfare of all the people, the adoption by the Government of measures calculated to ensure the economic stability of all the component elements of society through the maintenance of a proper and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honoured principle of *salus populi est suprema lex.*" (Calalang vs. Williams, 70 Phil. 726). To further bolster the rights of the workers as against the employers, the court said, "As between the laborer, usually poor and unlettered, and the employer, who has resources to secure able legal advice, the law has reasoned to demand from the latter stricter compliance. Social justice, in this case, is not equality but protection" (Ondoy vs. Ignacio, 97 SCRA 611).

2. Method

The research used a case study method to determine the implications of these labor policies to the labor and enterprise sectors. The objectives of the study are the following:

1. What are the bases of Philippine Labor laws?
2. How does the government implement labor laws?
3. What are the effects of labor laws on the workers and businesses?
4. What are the benefits of government, private enterprise and the labor sector?

The study will present the legal bases of the policies on labor through the available data, primarily government documents. The scope of the research concentrates on the policies affecting the business and labor sectors to compare and analyze through the records, media interviews and jurisprudence.

A case study is appropriate for this study because researchers have used the case study research method for many years across a variety of disciplines. Social scientists, in particular, have made wide use of this qualitative research method to examine contemporary real-life situations and provide the basis for the application of ideas and extension of methods. Researcher Robert K. Yin defines the case study research method as an empirical inquiry that investigates a contemporary phenomenon within its real-life context when the boundaries between phenomenon and context are not clearly evident. Multiple sources of evidence are used (Yin, 1984, p. 23).

3. Results and Discussion

3.1 Legal Bases of Philippine Labor

The 1987 Philippines constitution declares under Article XIII Section 3. " 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 the law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law. The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace. The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns to investments, and to expansion and growth." The implementing law recognized these rights and in accordance under PD 442, otherwise known as the Labor Code of the Philippines under Article 3. "Declaration of basic policy. - The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work" and Article 4. "Construction in favor of labor. - All doubts in the implementation and interpretation of the provisions of this Code, including its implementing rules and regulations, shall be resolved in favor of labor."

3.2 Labor Force and Employment

Population growth averaged 2.9 percent from 1965 to 1980 and 2.5 percent in the late 1980s. While more than 40 percent of the population was below fifteen years of age, the growth of the working-age population--those fifteen years of age and older--was even more rapid than total population growth. In the 1980s, the working-age population grew by 2.7 percent annually. In addition, the labor force participation rate--the proportion of working-age people who were in the labor force--rose approximately 5 percentage points during the 1980s, largely because of the increase in the proportion of women entering the workforce. So the actual labor force grew by 750,000 people or approximately 4 percent each year during the 1980s.

Agriculture, which had provided most employment, employed only approximately 45 percent of the workforce in 1990, down from 60 percent in 1960. The manufacturing industry was not able to make up the difference. Manufacturing's share of employed people remained stable at about 12 percent in 1990.

The service sector (commerce, finance, transportation, and a host of private and public services), perforce, became the residual employer, accounting for almost 40 percent of the workforce in 1988 as contrasted with 25 percent in 1960. Much of this growth was in small-scale enterprises or self-employment activities such as hawking and vending, repair work, transportation, and personal services. Such endeavors are often referred to as the "informal sector" because of the lack of record-keeping by its enterprises and relative freedom from government regulation, monitoring, or reporting. Informal sector occupations were characterized by low productivity, modest fixed assets, long hours of work, and low wages. According to a 1988 study of urban poor in Metro Manila, Cebu, and Davao cities published in the *Philippine Economic Journal*, more than half of the respondents engaged in informal sector work as their primary income-generating activity.

Unemployment, which had averaged about 4.5 percent during the 1970s, increased drastically following the economic crises of the early 1980s, peaking in early 1989 at 11.4 percent. Urban areas fared worse; unemployment in mid-1990, for example, remained above 15 percent in Metro Manila.

3.3 Government Implementation of labor laws

The Administrative Code of 1987 E.O. 292 declares, in particular, the power of the Department of Labor and Employment to wit: Title VII, LABOR AND EMPLOYMENT CHAPTER 1, GENERAL PROVISIONS Section 1. *Declaration of Policy.* -

(1) The State shall afford full protection to labor and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining negotiations, and peaceful concerted activities, including the right to strike in accordance with the law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

(2) The State shall promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace.

(3) The State shall regulate the relations between workers and employers, recognizing the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments and to expansion and growth.

Section 2. *Mandate.* - The Department shall be the primary policy-making, programming, coordinating and administrative entity of the Executive Branch of the government in the field of labor and employment.

The PDP 2011 to 2016, as prepared and coordinated by the National Economic and Development Authority as the statutory national planning authority for socio-economic development in the country, provides the strategic policy framework for the Philippines in the medium-term. Attendant to the PDP is Sectoral Plans to be prepared by appropriate sectors to allow for sector specificities while remaining aligned to the PDP 2011 to 2016 goal of inclusive growth. The Philippine Labor & Employment Plan (LEP) 2011-2016 A Sectoral Plan under the PDP, the LEP 2011 to 2016 provides the strategic directions for labor and employment in the medium-term. It represents a significant effort to work collectively towards the same goals and is important for the following reasons: · It communicates the Philippine vision for labor and employment and shows the intended direction and emphasis over the next five years; · It signifies a commitment to bring about positive results; · It informs policy, operational and budget decisions and connects them to the overall Philippine goals; and, · It provides a structure by which accountability and strategic management of programs and services are ensured.

3.4 The Global Economy and Labor Market

Following the slowdown in GDP in 2001, the global economy experienced a relatively robust and uninterrupted expansion over the six-year period covering the years 2002 to 2007, with annual GDP growth accelerating from 3.0% to 5.3%. On the heels of bankruptcies among financial institutions in developed economies that led to a full-blown global financial crisis, growth slowed down to 2.8% in 2008 and actually dipped to negative 0.6% in 2009, the worst economic slowdown since the Great Depression of the 1930s. In 2010, the global economy rebounded strongly, posting a 4.8% GDP growth on the back of the robust recovery in the Asian region—a global economic upturn in recent years not matched by an expansion in employment. While the global economy has generally grown over the past ten years, the employment-to-population ratio, which represents the share of people of working age in employment, showed very little improvement and was on the downtrend in recent years. Correspondingly, the global unemployment rate in 2009 and 2010 remained high at 6.3% and 6.2%, respectively, and virtually unchanged over the past six

years. This means that economic expansion and the recent recovery has not been matched by a similar expansion in employment opportunities in many countries.

Annual Growth Rates in GDP and Employment: 2001-2010 (in %)

Indicator	Ave.	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
GDP (at constant prices)	4.7	1.8	4.4	4.9	6.4	5.0	5.3	7.1	3.7	1.1	7.3
Employment	2.9	6.2	3.1	1.9	3.2	2.2	2.0	2.8	1.6	2.9	2.8

*Sources: National Statistical Coordination Board, National Account of the Philippines
National Statistics Office, Labor Force Survey.*

In the past years, the GDP of the Philippines had grown steadily from 2001 to 2004. Though there was a slowdown in 2005-2006, there was high growth again in 2006, which was interrupted only by the onset of the global financial crisis of 2008-2009. During these periods of growth, there was a slower pace of growth in employment. This "lagging" may be due to the extreme weather disturbances the country experienced. Considering that a large part of the labor force is employed in agriculture, this is valid. Another reason is the difference between GDP and employment with respect to their sectoral structures. The agriculture, forestry and fishing sector contributed only less than one-fifth (16.8%) to the country's GDP in 2010, considering that one third (33.2%) of the total employed is working in this sector. This lagging could also be viewed with distinction to full-time and part-time employment. "In 2009, for instance, employment grew by 2.9% despite the slowdown in GDP to 1.1%. But the growth in employment occurred almost entirely among part-time workers (8.4%) while full-time employment actually fell (-0.5%)."

3.5 Effects of Labor laws on the workers and businesses

The effect of the equilibrium between the enterprise and the workers creates intangible results that benefit them both. In a decision rendered to protect the workers against the abuses of the employers, the Philippine Supreme Court declares that " When a person has no property, his job may possibly be his only possession or means of livelihood. Therefore, he should be protected against any arbitrary deprivation of his job (Rance et al. vs NLRC, GR No. 68147, June 30, 1988). The further stresses the negative and ill-effect of the unjust deprivation of the worker's job and the effect of this to his family and society as a whole the court, in a dramatic and powerful declaration, said, "There is in addition, his family to consider. Unemployment brings untold hardships and sorrows to those dependent on the wage-earner. The misery and pain attendant on the loss of jobs then could be avoided if there be acceptance of the view that under all circumstances of a case, the workers should not be deprived of their means of livelihood" without due process of law (Almira vs B.F. Goodrich Phil. Inc., 58 SCRA 120).

Labor laws and regulations have been devised to protect labor from abuses by employers and improve labour-power to bargain for decent wages and working conditions. Practices and regulations in the labor market are focused on minimum wage mandates labor regulations concerning the hiring and firing of workers. Such practices have their costs. They render the labor market less flexible. For instance, long conflict resolution processes raise the cost of employment. Potential negative effects of these policies could defeat the objectives of improving labor welfare.

"Minimum wage and employment: the overall effects." The study's findings support many of the points that have been saying *for ages about the ill effects on employment and on our development performance!*

Their findings reinforce the conclusions of economic analysis based on the country's large labor supply. Aggressive minimum wage rates increases have led to a reduction in employment, making households dependent on wage incomes suffer significant drops in their welfare, some falling into poverty. Such detailed findings are now possible because there is much more body of statistical data available. Research methodologies have also improved. Imaginative ways to link demographic characteristics with other wage variables have led to micro studies focusing on the impact of employment on firms and household welfare.

"Minimum wage and business enterprises." The first major finding is that when minimum wages are raised, business enterprises reduce their hiring of labor. (The rise in minimum wages has often meant significant increases in the daily wage rates and/or in wage benefits as mandated by government orders.)

The study finds a significant *negative* relationship between minimum wage and the number of production workers employed. Thus, minimum wage changes reduce employment.

3.6 The benefits of government, private enterprise and the labor sector

3.6.1 Investment Policy and Laws General Policy on Investments.

Investment is most welcome in the Philippines. In general, anyone is welcome to invest in the country regardless of nationality. For most economic activities, foreign investment restrictions are on the extent of ownership allowed for a particular activity.

Philippine laws and regulations guarantee the basic rights of all investors and enterprises, including the following:

- Freedom from expropriation without just compensation
- Right to remit profits, capital gains, and dividends within the guidelines of the BSP, the country's monetary authority How to operate in the Philippines
- Right to repatriate the proceeds of the liquidation of investments
- Right to obtain foreign exchange to meet principal and interest payments on foreign obligations. There is a number of laws governing investments in the Philippines. Presently, there are moves to consolidate all the incentive laws into one law to rationalize the grant and administration of fiscal and non-fiscal incentives given by various incentive bodies.

Labor force and employment. The Philippines had a 40.4 million-strong labor force by July 2012, a 1.2% increase from July 2011. This places the country among the top 10 developing economies with a large labor force. With the growth of the economy, the number of unemployed decreased to 7.0% or 2.8 million in 2012, while the number of underemployed persons or those employed who desire to have additional hours of work grew by 20.5% to 8.5 million

Philippine Economy 3.1 Recent economic growth. The Philippines weathered the 2008-09 global recession better than its regional peers due to minimal exposure to securities issued by troubled global financial institutions; lower dependence on exports; relatively resilient domestic consumption, supported by large remittances from the four to five million overseas Filipino workers, and a growing business process outsourcing industry. Growth was further buoyed by strong election spending. The Philippine economy grew 6.6% in 2012, following a growth of 3.7% in 2011. This came as a pleasant surprise because of the weak, if not deteriorating, economic conditions in the global environment, particularly in Europe. The growth performance translates to an estimated annual per capita income of about US\$2,450, putting the Philippines among the middle income developing Asian economies

3.7 Labor Productivity

Total Factor Productivity (TFP), the efficiency in the use of both labor and capital, is important because labor income depends on labor productivity growth. This growth is the average product of labor which correlates with labor's contribution to enterprise revenue and profits. Improvements in workers' real wages and earnings are related to labor productivity growth and not exactly to employment growth. Improvements in real wages improve the poverty incidence of the people, thus helping in poverty reduction. Canlas, Aldaba Esguerra argues that policymakers should have a good understanding of the sources of TFP because sustainable growth comes from rising TFP growth. "One key factor is educated labor, which has the capacity to invent, innovate, and master new techniques." In the long run, it is important to educate the population and invest in human development and research and development to improve TFP. But there should be care in this issue as there is the so-called job mismatch which will be discussed later. Canlas, Aldaba, Esguerra advise that to raise TFP growth, monetary policy and fiscal policy should stabilize a predictable environment for the private sector.

3.8 Balance between workers' welfare and employment generation

In the past decades, the Philippines experienced that having policies that are biased on workers' welfare and protection may hinder employment creation. Sound policies that improve the condition of employment and workers' welfare without resulting in too much increase in labor costs would be better. The consequences of a rigid labor market due to undue intervention may result in lower investments and, thus, slower growth.

3.9 The government, private enterprises and workers relationships

3.9.1 Government

The government, through its laws, may regulate the relationships of the two-component forces of the society. At the end, when the businesses can perform business functions without or with minimal interference from the government, a healthy environment is created. It will be enticing for them to put up their capital and allow them to freely grow and more expected results in the end. The government, while protecting the enterprise, must also protect the labor, as always mentioned by prominent authors in the field of human relations, that the people are the most important asset of the company considering that the government will be the referee and judge when it comes to labor and capital disputes.

3.9.2 Private Enterprise

The corporation is a mere creature of the State and with its enabling law like the B.P. 68 section 2 that defines a corporation. It is a person in contemplation of the law and enjoys the privileges accorded to the natural person to some limited extent. The company exist because of the people (clients and employees) and the government. The words of the founder of National Panasonic Corp have something to say. It said, "the company earned profits not because the company exists to earn profits, but because the people or the clients permit the company to earn its profits." In a sense, companies must look and ponder about the welfare of the people.

3.9.2 Workers

The laws tilt in favor of the working group as declared if there will be conflicts and ambiguity in the interpretation of the laws as, between the worker and the employer, the courts are reminded to resolve it in favor of the working group. This liberal treatment of the court as regards the workers must not be interpreted to abuse the enterprise just to advance the rights of the workers. The working class are also reminded that the capitalist poured capital into earning just profits as a return on their investments. They must not forget that the laws apply equally between them. The law protects the workers and also protects the enterprise.

4. Conclusion

The objectives of the study are the following: What are the bases of Philippine Labor laws? How does the government implement labor laws? What are the effects of labor laws on the workers and businesses? What are the benefits of government, private enterprise, and the labor sectors? The finding of the study: Government must give equal opportunities and incentives for local and foreign companies in the light of ASEAN 2015. The government must secure the preference of Filipino workers over other nations. Revisit the law that encourages the business to include the workers in the policymaking process. The government must strictly watch over the widespread abuse of contracts in order to avoid the regularization of employees.

It is always the policy of the government to protect its people and the enterprise from the abuse of either side. The government enacted laws to advance the rights of the workers as well as to protect the investments. Without the worker, the country will not prosper, and the same is true; without the business that pours capital, the country will not develop. The role of the government is to neutralize the two-component forces of society. We can only achieve this by resorting to dialogue and should not resort to things that may impair the interest of the parties. We have laws that secure the welfare of the workers and protect the enterprise's interests. The DOLE, being the State's representative, must be vigilant and zealous in watching the interest of workers and the enterprise. The government should encourage the businesses to create more jobs for the Filipinos and renew their commitment by encouraging freedom from coercion or threat of loss of jobs and business. Labor laws are compassionate in their implementation and always look for the benefit of either side, whether by an employer or worker. Workers must be given a chance to participate in the policy-making processes of the enterprise and not merely policies affecting the conditions of work, more so in the determination of the policies of the business as a whole.

The scope and delimitation of the research concentrates on the policies affecting the business and labor sectors to compare and analyze through the records, media interviews and jurisprudence.

Attention may also be invited to the researchers and scholars of public administration, political science and management to conduct a parallel study that supports and enhance the assumption about the need to study the Labor policies in the Philippines

5. Recommendation

The government should give importance to the following:

1. Government must give equal opportunities and incentives for local and foreign companies in light of ASEAN 2015.
2. The government must secure the preference of Filipino workers over other national
3. Revisit the law that encourages the business to include the workers in the policymaking process
4. The government must strictly watch over the widespread abuse of contracts in order to avoid the regularization of employees.

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