

**InFocus Programme on Social Dialogue,  
Labour Law and Labour Administration**

**Working Paper**

**Social Dialogue and Labour Market Performance  
in the Philippines**

**Tayo Fashoyin**

**International Labour Office - Geneva  
February 2003**

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## Foreword

Promoting and strengthening social dialogue in member States is one of the strategic objectives of the ILO. In pursuit of this objective, the ILO's InFocus Programme on Social Dialogue, Labour Law and Labour Administration (IFP/Dialogue) has undertaken important work to study existing social dialogue institutions, machinery and processes, to advocate the value of social dialogue and to provide technical assistance to member States aimed at strengthening social dialogue in their respective countries.

This paper is one of a number of country studies on social dialogue to be undertaken by the InFocus Programme. The series seeks to elaborate on the concept of social dialogue as practised in member States, analyse different approaches to social dialogue and identify best practice. In this paper, the author explains that tripartite consultation is firmly rooted as an approach to social dialogue in the Philippines, particularly since the return to democracy in 1986. Several tripartite institutions exist in the country for the regulation of the labour market. Through these institutions and processes, the social partners participate with government in policy-making and implementation and thereby play a major role in addressing the social and labour market issues arising from globalization.

At the same time, the paper points out that a relatively large segment of the labour force is neither effectively covered by the Labour Code nor organized by the trade unions. Protection of the rights of this group of workers to representation then becomes an important challenge for those concerned with the country's labour market. Furthermore, as the author points out, it must be ensured that decisions at the higher level of social dialogue are effectively transmitted to institutions and individuals involved at lower levels, otherwise social dialogue may not have the optimum impact. Finally, he suggests that greater attention be given to improving productivity in order to make the Philippines economy fully competitive.

These national studies are designed to build up a body of knowledge on the practice of social dialogue in member States with a view to identifying its contribution to social and economic development. They also provide a sound basis for ILO technical assistance to its member States to help develop and strengthen their institutions and processes of social dialogue. The conclusions of the report were discussed at a national tripartite seminar, which took place in Manila on May 7, 2002. On the basis of the discussion, the partners agreed on a set of conclusions and recommendations, aimed at strengthening social dialogue in the Philippines labour market. The InFocus Programme will collaborate with the constituents in the Philippines and the ILO Office in Manila to realize the desired objective.

I would like to convey my appreciation to the tripartite constituents in the Philippines who generously shared their experience and expertise with us and to Tayo Fashoyin, Senior Social Dialogue Specialist of the InFocus Programme, who was responsible for undertaking this country study.

February, 2003

Patricia O'Donovan  
Director  
InFocus Programme on Social Dialogue,  
Labour Law and Labour Administration

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In the employers' group, I would like to express my appreciation to Mr Donald Dee, President of the Employers' Confederation of the Philippines, his predecessor, Mr Miguel Varela, the Director General, Mr Vincente Leogardo, his Deputy, Mr Roland Mayo and Ms Ina Ortiz, Research and Advocacy Manager of the Confederation. I am also grateful to Mr Joey Molina, former President of the Philippines Association of Labour-Management Councils, PALMCO, and his successor, Mr Ronald Gaspar. In the workers' group, I am grateful to Mr Roy Oliveros, National Vice-President of the Federation of Free Workers, and several of his colleagues who spoke with me. My appreciation goes to Mr Cedric Bagtas, Deputy General Secretary of the Trade Union Congress of Philippines, and Mr. Daniel Edralin, General Secretary of the National Union of Workers in Hotels, Restaurants and Allied Industries and his colleagues.

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## Introduction

The commitment to social dialogue in the Philippines is a tradition that has been nurtured since the period of martial law in the 1970s. Although there is a view that the Marcos Government of the time had instituted tripartism as a corporatist design to give legitimacy to its policies, there is evidence to suggest that the institutions created in that period have evolved over the years as genuine mechanisms for resolving complex labour market problems. In this regard, tripartite consultation has played a significant role in addressing a host of labour and socio-economic issues in the country.

Globalization and trade liberalization have created a stronger impetus for social dialogue at both enterprise and national level. Intensified competition occasioned by these phenomena has induced enterprises to adopt several measures designed to enable them remain afloat and compete effectively. Such measures include cost reduction, promotion of productivity, enhanced efficiency and product quality. This has naturally led to labour market policies and adjustments, some of which have led to disagreements amongst those involved, and inevitable strains in labour relations.

One of the major challenges facing the tripartite partners in the Philippines, therefore, is how to reconcile economic equity and labour rights with the challenge of development and competitiveness. There is a perception in certain circles that the economic environment has not been sufficiently conducive to more investment. The employers, for example, argue that labour market policies and procedures and the behaviour of those involved have made it difficult for business and investors to compete effectively, while adequate foreign direct investment has been lacking. In a debate such as this, labour market issues are part and parcel of the overall macro-economic challenges facing the country, particularly in this era of globalization. In effect, the social dialogue process has advanced to the terrain of broad economic issues, and has led for example, to the signing of social accords, such as a recent one on fair trade.<sup>1</sup>

Bringing issues such as these to the forefront of social discourse illustrates the view that to operate effectively in the global marketplace requires using social dialogue to address social and economic issues. Furthermore, this is sound social policy. Tripartite consultation amongst the social partners and other relevant stakeholders is thus a useful way of building consensus on policy issues.

ILO's tripartite structure and experience quite clearly suggest that "the best solutions arise through social dialogue in its many forms and levels, from national tripartite consultations and cooperation to plant-level collective bargaining. Engaging in dialogue, the social partners also fortify democratic governance, building rigorous and resilient labour market institutions that contribute to long-term social and economic stability and peace".<sup>2</sup> In the same vein, social dialogue in the Philippines is based on "the necessity of cooperation and mutual respect between and among the social partners to promote and maintain a stable, dynamic and just industrial peace which is essential for a sound and stable economy".<sup>3</sup> The debate in the country is therefore not about the relevance of

<sup>1</sup> According to Ms Patricia Sto. Tomas, the Labour Secretary, there were 17 social accords between the tripartite partners in 2001. See *Speech delivered at the National Tripartite Workshop on Social Dialogue in the Philippines, Makati City, Manila 7 May 2001*.

<sup>2</sup> Juan Somavia, *Decent Work*. Report of the Director General to the 87<sup>th</sup> Session of the International Labour Conference. Geneva, June 1999, p. 34.

<sup>3</sup> Code of Industry Harmony, quoted in B.E.R. Bitonio, "*Social Dialogue and Tripartism in the Philippines*". Paper presented at the Asia-Pacific Regional Seminar on Tripartism. Bangkok, March 2001.

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tripartism and social dialogue, but on the scope of social dialogue and how to bring groups outside the traditional tripartite partners into the consultative mechanism. The debate has sometimes taken place in unforeseen ways, such as the recent experience of so-called “street dialogue” where labour market issues and the economy are addressed at rallies and public demonstrations.<sup>4</sup> It is noteworthy that there has been a willingness by the public authority to listen to these concerns as much as possible.

The justification for broad consultation emanates from the reality of an economy in which over two-thirds of the labour force are outside the organized workforce. Notable progress has been made in this regard. In 1999, for example, a multi-sectoral consultative body was set up to address one of the critical labour market issues, namely job creation. Also in 2001, a summit of all stakeholders was organized, which recommended the creation of the National Anti-Poverty Council, headed by President Arroyo. In cases such as these, the strategic choice to address major labour and economic issues through consultative processes has contributed to consensus building among the various stakeholders and to good governance in the country.

At the same time, it is important to determine which labour market issues should be debated in public forums by all and sundry, bearing in mind the effect the debate might have on policy, especially in regard to issues that are traditionally believed to be exclusive to the social partners. As this paper points out, failure to define the scope of issues for general debate, and then the role it should play in ultimate policy formulation, might adversely affect the sustainability of social dialogue as an effective mechanism for addressing labour market issues.

In this paper, social dialogue is defined as referring to all types of negotiation, consultations or simply exchange of information, usually between the representatives of government, employers and workers, on issues of common interest relating to economic and social policy. Seen in this way, social dialogue covers the traditional area of industrial relations, including bipartite collective bargaining at enterprise or industry level, and encompassing consultation in tripartite and tripartite-plus institutions at national or sectoral level. These processes may take place in a formal institutional framework, or in informal or ad hoc consultations.

The paper examines some of the key tripartite (and tripartite-plus) institutions involved in the regulation of the labour market in the Philippines. It avoids, however, the presumption that social dialogue on labour market issues takes place only through the institutionalized mechanisms discussed here. Neither is it suggested that social dialogue in the Philippines is confined to institutional arrangements. On the contrary, there are a host of other institutions, as well as informal and *ad hoc* consultations, that serve to complement the institutionalized machinery. For example, following the tripartite conference in March 2001, an ad hoc tripartite-plus Employment Planning Committee was set up specifically to discuss and contribute a section on the medium-term national plan. The Committee included not only the traditional tripartite partners, but also farmers, voluntary agencies and non-governmental organizations. Ad hoc forums such as this, as well as informal consultations, continue to be part of the consultative process in the Philippines.

<sup>4</sup> For example, during the presentation of her first *State of the Union Address* on 23 July 2001, President Gloria Arroyo ordered six cabinet secretaries to meet with the thousands of workers, civil society and other groups to listen to their concerns. See *The Inquirer*, 23 July 2001, p.1. This experience emerged, no doubt, from the demonstrations in favour of good governance, such as the one that led to the removal of President Estrada a few months earlier in the same year.

<sup>5</sup> Table 3.1 below, which lists many more elements of the institutional framework, based in the Department of and Employment, is by no means a complete listing of *all* such institutions; there are several other tripartite (and tripartite-plus) institutions which are not based in that Department.



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## Chapter 1

### **The labour market: Characteristics and overview**

Following growing economic crisis and balance of payments deficits in the 1960s, the failed policy of industrial import substitution was abandoned in the 1970s and a new export-oriented industrial development strategy was put in place. The new strategy has had considerable influence on the operation of the labour market in the country.<sup>1</sup> While this policy was designed to improve the country's international competitiveness through a labour market policy directed at employment flexibility and control of labour costs, it has had the effect of undermining industrial relations institutions, policies and systems. Certainly, it was accompanied by a repressive industrial relations policy, which was the natural outcome of the martial law regime of President Marcos. The period heralded a decline in union influence and restrictions on workers' rights to organize and bargain on employment conditions. By the same token, employers' influence over employment issues was considerably enhanced.

Globalization has had a remarkable effect on the Philippines economy generally and the labour market, in particular. A major concern of those involved is the level of investment. It is not that investment has not increased. In point of fact, official records indicate that between 2000 and 2001, overall investment projects rose from 182 in 2000 to 196 in 2001. Total project cost rose by 91 per cent to some P.51 million.<sup>2</sup> These investments generated 33,266 jobs in 2001, representing an increase of 15 per cent of the employment created in the previous year.<sup>3</sup> The concern, however, appeared to be that the level of such investment was inadequate to sustain growth and generate employment for the large unemployed and under-employed population. Indeed, as can be seen in Table 1.1 below, the growth associated with investment was not matched by an increase in employment in the formal sector until 2001. Rather, the employment effect has been more noticeable in the services sector and the informal economy.

### ***Employment, unemployment and wages***

Out of a population of 78.3 million in 2001, the labour force of 32.8 million people had a labour force participation rate of 67.1 per cent. This figure was the highest in the six-year period beginning in 1996, as shown in Table 1.1 below. Of the labour force figure, 29.16 million are employed in both the formal sector and informal economy. The employment growth rate was 6.2 per cent, compared to the previous year's rate of a mere 1 per cent. In other words, the records show a substantial improvement in the employment situation at the beginning of this millennium.

Three groups of workers are commonly identified in the labour market in the Philippines. The first is the wage and salary-earning group. Records show that this group accounted for 14.438 million in 2001, representing nearly half of the total employed workers. Of this, about 10.74 million workers (or 36.1%) were employed in private establishments in January 2002, and another 2.39 million (or 8.03%) in government and government corporations. They were, in the main, covered by labour law

<sup>1</sup> For a full account of the thrust of this industrial policy and its implications for the labour market, see Rene E. Ofreneo, "Philippine Industrialization and Industrial Relations" in A. Verma, T.A. Kochan and R. D. Lansbury, eds. *Employment Relations in Growing Asian Economies*. London, Routledge, 1995, pp. 194-247 and Sarosh Kuruvilla et al., *Globalization and Industrial Relations in the Philippines*. Bangkok, ILO Regional Office for Asia and the Pacific, 2000.

<sup>2</sup> Department of Trade and Industry. DTI Dataline. Vol. 5, No. 19. July 2001, Manila.

<sup>3</sup> The exchange of the Philippine Peso was P53=1US\$ in December 2002.

and industrial relations processes.<sup>4</sup> However, in order to gain a clearer understanding of the pattern of wage employment in the country, we can look at the distribution of employees by size of establishment. Thus, of the 820,960 establishments in the country in 2000, the following distribution is revealing.

<u>% of establishments</u>		<u>size of workforce</u>
76.70	employed	1 – 4 workers
14.34	“	5 – 9 workers
4.95	“	10 – 19 workers
3.22	“	20 – 49 workers
0.37	“	100 – 199 workers
0.36	“	200 and over workers

In other words, about 91.1 per cent was employed in establishments with less than 10 workers. This pattern of employment has important implications for workers’ organization, labour relations and the broader issue of social dialogue. For example, in view of the inherent difficulty of organizing workers in small enterprises, the base of union organization is virtually confined to less than one per cent of the establishments, that is, the large and medium-sized enterprises.

The second group comprises “own account” workers, accounting for about 11.27 million (or 37.92%) of the total employment in January 2002. The larger proportion of this group, i.e. 9.66 million (or 32.52%) were self-employed, while 1.60 million (or 5.39%) were categorized as employers.<sup>5</sup> The third group is the “unpaid family worker” category, accounting for 4.03 million workers (or 13.56%) of total employed in the same year. This gives a combined total of about 15.30 million (or 51.48%) workers.<sup>6</sup> Most of the workers in both groups are probably operating in the informal economy.

<sup>4</sup> About 1.28 million (or 4.3%) were employed in private households. See National Statistical Office, Labor Force Survey, January 2002. I thank the Employers Confederation of the Philippines for this and subsequent information on the structure of the wage employment sector.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid. See also Labstat, Bureau of Labor and Employment, Department of Labor and Employment, Manila. Vol. 6, No. 2, January 2002, Table 3. In 1995, employment in the informal economy was about 5.4 million. (See Key Indicators of the Labour Market, 2001-2002. Geneva, ILO, 2002, p. 237)

**Table 1.1: Labour force statistics, 1995-2001**

<b>Indicators</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Labour-Force</b>	29,733	30,354	31,056	30,759	30,911	32,808
<b>Employed</b>	27,186	27,715	27,911	27,742	27,453	29,155
<b>Under-employed</b>	5,715	6,121	5,719	6,127	5,955	5,005
<b>Unemployed</b>	3,042	2,640	3,144	3,017	3,459	3,654
<b>Labour-Force Participation Rate</b>	66.7	66.3	66.1	66.4	64.9	67.01
<b>Employment Rate</b>	91.4	91.3	89.9	90.2	86.1	88.7

Source: Bureau of Labour and Employment Statistics, Department of Labour and Employment, and National Statistics Office, Manila, June 2001 and January 2002.

The increase in employment observed in 2001 was due to expansion in agriculture and services, with growth rates of 6.6 per cent and 6.1 per cent respectively, as shown in Table 1.2. In both cases, the growth in employment was a significant reversal of the pattern in the preceding year. Industrial employment also performed better, with a significant turnaround from the slump of the two previous years. It would appear that, in contrast to the high incidence of closures and retrenchments experienced in the late 1990s (see Table 1.3), such phenomena appear to have subsided in the following years.

**Table 1.2 Employment by sector, 1999-2001 ('000)**

	<b>1999</b>	<b>Growth Rate %</b>	<b>2000</b>	<b>Growth Rate %</b>	<b>2001</b>	<b>Growth Rate %</b>
Agriculture	10,774	6.3	10,181	-5.5	10,850	6.6
Industry	4,515	-1.1	4,454	-1.3	4,711	5.8
Services	12,446	3.5	12,811	2.9	13,591	6.1
All Industries	27,742	3.8	27,453	-1.0	29,155	6.2

Source: Medium-Term Philippines Development Plan, 2001-2004. Department of Labour and Employment, Manila, 2001.

Three observations can be made in respect of employment in the country. The first is that much of the gain in employment has been due to expansion in casual employment, such as part-time work, particularly in agriculture and trade. According to official records, while part-time employment accounted for 87.7 per cent of total employment growth in 2001, the growth in full-time employment was a mere 0.3 per cent.<sup>7</sup> The second point, not apparent from the data on manufacturing employment, taking into account that a large proportion of manufacturing is undertaken not in large manufacturing companies but in the small and even micro-enterprises, is that it is very likely that official statistics do not capture the full scale of formal employment. The third point is that, as will be shown later, despite the huge size of the informal economy, the legal provisions on the protection of employment rights, such as the constitutional provisions on “social justice and human rights”, as well as the provisions of the Labour Code, are basically in favour of the wage employment sector, and particularly organized labour.

<sup>7</sup> Labstat, Bureau of Labour and Employment, Department of Labour and Employment, Manila. Vol. 6, No. 2, January 2002, p. 4.

## Unemployment

Consequently, it can be concluded that, with an absolute increase of over 1.7 million workers in 2001, the economy's employment generation capacity substantially improved over the previous year. However, this increase was not enough to affect the overall unemployment rate, which remained at the 2000 level, as shown in Table 1.1. The main explanation for this was that the rate of increase in the labour force exceeded the capacity of the economy to absorb it. At the same time, it appears that, although the scale of company closures and retrenchment began to decline in 1999, it has not been completely reversed in the present decade. In the late 1990s, the number of firms declaring retrenchments and closures rose until the end of the decade. As Table 1.3 shows, over 70 per cent of workers affected by closures or retrenchment were employed in large enterprises, although such occurrences were particularly high among small enterprises. This point is significant in view of the evidence that it is small enterprises that provide most jobs in the labour market.

**Table 1.3: Retrenchment and closures, 1997-2000**

	<b>Firms</b>	<b>Workers Affected</b>	<b>Redundancy</b>	<b>Workers Affected</b>	<b>Closures</b>	<b>Workers</b>
<b>1997</b>	889	39,263	635	22,975	268	16,288
<b>Small</b>	389	4,742	210	1,687	180	3,055
<b>Medium</b>	159	4,978	123	2,139	39	2,841
<b>Large</b>	341	29,543	302	19,151	49	10,392
<b>1998</b>	2,525	79,023	2,046	59,733	510	19,290
<b>Small</b>	1,290	10,838	888	5,532	421	5,306
<b>Medium</b>	434	9,904	386	6,533	49	3,371
<b>Large</b>	801	58,281	772	47,668	40	10,613
<b>1999</b>	2,288	71,849	1,806	45,805	519	26,042
<b>Small</b>	1,066	9,932	678	4,402	405	5,530
<b>Medium</b>	484	8,929	442	5,494	51	3,435
<b>Large</b>	738	52,986	686	35,909	61	17,077
<b>2000</b>	2,211	66,293	1,756	45,202	479	21,091
<b>Small</b>	1,117	10,067	736	4,704	393	5,363
<b>Medium</b>	377	7,805	336	4,716	46	3,089
<b>Large</b>	717	48,421	684	35,782	40	12,639

**Note:** Small enterprises employing less than 50; medium enterprises employing 50-99; large enterprises – employing 100 or more.

Source: Bureau of Labour and Employment Statistics in Medium-Term Philippine Development Plan, 2001. Manila, Department of Labour and Employment.

Under-employment is another consideration in the operation of the labour market, as it shows the extent of under-utilization of labour in the country. As indicated in Table 1.1, the number of under-employed, that is those expressing the desire for additional hours of work or another job, rose continuously during the 1990s, although it started to fall in 2000, with a larger decrease of nearly one million in 2001. However, as the Department of Labour points out, the marked decline in the incidence of under-employment overall had no noticeable effect on visible under-employment, which was estimated at about 11 per cent for 2000 and 2001.<sup>8</sup>

The Philippines is a major labour export economy. Because the domestic economy could not absorb the large number of unemployed people, an increasing number of Filipinos have sought

<sup>8</sup> Labstat, op. cit., Table 6, p. 6.

employment overseas. Although the Government does not officially promote overseas employment, it regulates recruitment of Filipinos by local and foreign recruitment agencies, through the Philippines Overseas Employment Agency. Thousands of skilled and unskilled workers are thus 'exported' annually. In any event, as the available information shows, the level of overseas employment increased only slightly during 1998-2000, and the rate of increase declined consistently during the period. The increase in 2000 was only a meagre 0.6 per cent, reflecting the severity of the Asian financial crisis.<sup>9</sup>

## The Gender Perspective

Table 1.4 is a summary of the employment scenario from the gender perspective. Although the ratio of male to female participation in the labour force remained fairly stable over the period, more women appeared to have entered the labour force. Unemployment was higher among female than male, even though underemployment was higher among male. Most probably, women who were unable to find formal sector employment ended up in the informal economy where wages could be very low and general working conditions relatively poor. The table demonstrates that, in spite of the commendable advancement towards gender equality in the Philippines, women are still a disadvantaged group in the labour market.

**Table 1.4. Labour Force, Employment and Unemployment by Sex, 1996-2001**

	1996		1997		1998		1999		2000		2001	
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>
<b>Labour Force</b>	18,634	11,098	18,997	11,358	19,408	11,646	19,104	11,654	19,306	11,605	20,098	12,710
<b>Employment</b>	17,170	10,016	17,466	10,248	17,534	10,378	17,253	10,489	17,193	10,259	17,923	11,232
<b>Unemployment Rate</b>	7.9	9.7	8.1	9.8	9.7	10.9	9.7	10.0	10.9	10.1	10.8	11.6
<b>Underemployment Rate</b>	23.0	17.7	24.0	18.8	24.0	21.8	24.8	17.5	24.0	17.8	19.8	13.0
<b>Labour Force Participation Rate</b>	83.5	49.8	83.5	49.3	83.3	49.2	82.9	50.1	81.6	48.7	82.4	51.8

Source: Bureau of Labour and Employment Statistics, Department of Labour and Employment, and National Statistics Office, Manila, June 2001 and January 2002.

## Wage regulation

Given the large size of the wage and salary-earning population, estimated at over 14 million workers, wages and wage regulation is a highly important subject in the Philippines labour market system. However, the profile of this population needs to be understood. Collective bargaining, the main machinery through which wages and conditions are decided, especially in the private sector, covers only a small segment of this population, and still less of the labour force. Some estimates put the number of workers covered by collective bargaining at less than half a million, concentrated mainly in large and medium-sized enterprises where union activities are visible. For the overwhelming majority of wage-earners, the minimum wage mechanism is the relevant means of wage regulation.

The minimum wage has been regulated since 1989 by regional wage boards created as part of the National Wages and Productivity Commission. There are 16 such wage boards, each responsible for setting the minimum wage at regional, provincial and, in some cases, industry level. As will be seen

<sup>9</sup> Medium-Term Philippine Development Plan, 2001. Department of Labour and Employment, Manila.

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later, the minimum wage has been adjusted more or less annually. Simply as a result of the differences in coverage of the work of the minimum wage boards, as well as the contending claims of labour groups, minimum wage regulation has increasingly become an issue of intense debate, not only between the tripartite parties, but also within the labour movement itself. Because the debate over the setting of the minimum wage has attracted much attention outside the tripartite forum of the wage boards, the role of the negotiating process has become blurred or insignificant, particularly where there is disagreement among the labour groups, or between them and the other partners. As a result, the process has tended to diminish the role and influence of the tripartite mechanism. Furthermore, it is inevitable that this approach would draw attention away from any idea of linking wage growth with productivity. More on this at a later stage.

### ***The employment challenge***

Without a doubt, the main labour market challenge in the Philippines is the creation of employment for the large number of unemployed and under-employed people. Indeed, this is the key element of the country's Medium-Term Development Plan, 2001-2002. According to the Labour Secretary, Patricia Sto Tomas, the thrust of the employment policy is "to provide Filipino men and women free and equal access to employment that is imbued with freedom, dignity and social justice".<sup>10</sup>

This concern is rooted in the view that the core of the poverty problem is joblessness, thus highlighting the need to create new employment opportunities in the country. At the same time, many people who have jobs are under-employed and on low wages. Associated with this is the need to improve the quality of the workforce in terms of skills for productivity, as well as the quality of employment, with respect to working conditions, remuneration and welfare. Thus the employment challenge calls for the formulation of coordinated strategies to promote "full, decent and productive employment" in both the formal and informal economy as a means of alleviating poverty.<sup>11</sup> To achieve this, the Government appears to recognize that ultimately its role in employment promotion is to provide a suitable policy framework that enables the private sector to perform its role as the primary source of employment generation.

In addressing this employment issue in the context of the priorities of the Arroyo administration, the Government organized an Employment Summit in March 2001 to mobilize the various stakeholders in a national campaign aimed at easing the unemployment problem. The Summit was the culmination of a series of sectoral consultations with stakeholders on the challenge of providing more jobs. At the Summit, leaders from business, labour and civil society joined the Government in pledging their commitment to government policy on the "generation, preservation, enhancement and facilitation of employment" in the Philippines.<sup>12</sup> The employers undertook:

- not to lay-off workers until the 2nd quarter of 2001
- to promote good governance
- to encourage member companies to provide real technical skills to their apprentices
- to promote the formulation and implementation of social accords with organized labour at enterprise level
- to promote information on jobs available, job matching and retraining
- promote codes of conduct among employers to ensure compliance with core labour standards.

<sup>10</sup> "DOLE chief cites top job concerns of Government" Manila Bulletin, 23 July 2001, p.1.

<sup>11</sup> Medium-Term Philippine Development Plan, 2001. Department of Labour and Employment. Manila.

<sup>12</sup> See Proceedings of the Employment Summit. Manila, Institute for Labour Studies, Department of Labour and Employment, March 2001.

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The labour sector, led primarily by the Labour Solidarity Movement, (LSM), a loose grouping of various labour federations and central confederations pledged:<sup>13</sup>

- to negotiate on protection and enhancement of jobs with the social partners
- to continue to establish, support and promote livelihood projects, including micro and small enterprises, and workers' cooperatives
- to join public and private initiatives that will quickly respond to worker displacement and job matching and placement of the unemployed
- to continue to use voluntary arbitration as a first step in resolving disputes.

With respect to civil society, some of the groups supported various aspects of the employers' and workers' commitments, including support for employment programmes in small and micro-enterprises, micro-insurance, savings schemes, loans, training for women and information on job vacancies. Finally, government pledges included a review of Department Order No. 10 on contracting and sub-contracting which had become a hotly contested issue for labour relations in the country. It also included the upgrading of welfare services for rural and women workers, and funding support for strategic programmes for high priority job-creation schemes.<sup>14</sup>

"Tripartite Quick Response Teams" were also set up in each region to investigate any contemplated or reported layoff, identify the profile of the workers in terms of skills needs and assess alternative employment possibilities, either in wage labour or in entrepreneurship, through existing institutions, such as TESDA for skills training. This programme featured prominently in President Gloria Arroyo's State of the Union address in July 2001. The employment plan also included short-term employment creation through an Emergency Employment Scheme, designed to provide jobs for up to 50,000 young and unemployed people and upgrade skills, although the long-term aim was to create sustainable jobs in agriculture and the industrial sector. The plan also included strategies to raise productivity and upgrade the labour supply through investment in education and skills acquisition.

It is noteworthy that after one year of this tripartite commitment, a review of the Medium-Term Development Plan, in so far as employment is concerned, indicated a high level of achievement. Several government departments and agencies, as well as the social partners, reported evidence of employment generation, preservation, enhancement and facilitation. The following are some of the highlights:<sup>15</sup>

- 161,148 farmers, fishermen and labourers benefited from projects initiated by the Department of Agriculture, while projects targeted at farmers, coastal dwellers and individuals from upland communities had 37,525 beneficiaries.
- The CDC provided employment opportunities to 2,402 workers by promoting trade and investment among foreign and local investors.
- Summer and short-term jobs were provided to 91,037 students under a DOLE special student employment programme. In addition, 7,881 young workers were placed in the nation-wide work experience programme.

<sup>13</sup> The LSM however did not commit to a strike-free environment, arguing that this is the fundamental right of workers. At the same time, the labour sector drew attention to a number of issues, including the repeal of Executive Order No. 10, on which the ECOP agreed to participate in its review. Labour also asked for the setting up of a team to oversee the attainment of the various commitments.

<sup>14</sup> For details of these pledges, see Proceedings of the Employment Summit. Manila, Institute for Labour Studies, Department of Labour and Employment, March 2001. Department Order No. 10 (Series of 1997) was intended to implement Articles 106-109 of Book III of the Labour Code. It was designed to provide guidelines for contracting and subcontracting arrangements.

<sup>15</sup> For details see Employment Summit Commitments. Highlights of Accomplishments for the Year 2001. Manila, Department of Labour and Employment. Unpublished report.

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- The Philippine Chamber of Commerce and Industries launched the Global Compact Initiative designed to establish links between SMEs through franchising and technology transfer. The Chamber implemented this compact through its nation-wide network of 850 local chambers.
  - The TUCP renewed the cargo-handling contracts as a result of which 500 workers were employed in Cebu and 400 in Cagayan de Oro. Furthermore, the TUCP pursued the signing of social accords, and industry/nation-wide collective agreements (CA) which covered commitments to preserve jobs. The Confederation also expedited the settlement of labour disputes at the conciliation, mediation and arbitration level, which reduced the number of strikes to only one or two during the period.
  - The Tripartite Quick Response Teams, through which the tripartite partners can respond effectively to the adverse effects of globalization and preserve employment, were actively pursued. For example, FPI's 342 member companies were able to avoid any lay-offs up to June 2001.

The performance of such social accords between the tripartite partners illustrates how social dialogue and a concerted approach by the stakeholders can meaningfully address the labour market effect of globalization and bring enormous relief to those who have fallen victim to the phenomenon. A concerted effort such as this is enhanced through coordination among the various levels of decision-making, regional, provincial, sectoral and enterprise. However, the adequacy or otherwise of human and other resources and organizational processes to implement them can have an important influence on the full impact of the tripartite (and tripartite-plus) accords.<sup>16</sup>

<sup>16</sup> Maria A.A. Ortiz, ECOP Constituency, Positions and Priority Issues for Consideration in the National Plan of Action for Decent Work in the Philippines. Manila, ECOP, November 2001.



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## Chapter 2

### The main social dialogue institutions

#### *The legal and institutional framework*

The Philippine Labour Code of 1974 provides an extensive legal framework for industrial relations in the country.<sup>17</sup> The Labour Code was introduced by the Marcos Government, undeniably with the political objective of controlling labour. Several aspects of the law, as will be shown later, had this controlling tendency. It is arguable, for example, that the introduction of the tripartite mechanism was a strategy to stifle criticism of the controls implicit in the Labour Code. Besides, it can also be reasonably suggested that, under an authoritarian regime, the conclusions of consultative processes such as the TIPC and the Wages Commission were hardly more than advisory. In any event, the Labour Code has since undergone extensive review to bring it in line with International Labour Standards.

The thrust of the Labour Code is the provision of extensive organizational rights to workers and employers, including freedom of association and the right to collective bargaining, as well as a host of other labour rights. As will be demonstrated later, an important element of the industrial relations system in the country is the entrenchment of social dialogue through tripartite consultation on labour market issues. Some of the key tripartite institutions are the subject of subsequent analysis in this paper. With regard to the public sector, while it is true that, within limits, the Labour Code recognizes the right of workers to organize and bargain, these rights were until 1986 denied to workers in the public sector. In that year, and as a result of the collapse of the Marcos Government, a Presidential Executive Order extended the right to freedom of association to workers in the public sector, including security guards and non-profit institutions.<sup>18</sup> This law also removed the provision that stipulated one union per industry, by allowing the formation and registration of multiple unions in any industry.

There is a perception, particularly in business circles, that public policy is strong on labour protection while creating an environment that is not sufficiently flexible to create jobs. Employers argue that the Labour Code provides for a mandatory minimum wage, and also makes it difficult, not to say almost impossible, to terminate employment. They argue further that even where an employer is able to prove just cause, either the worker will appeal the case or the employer will have to pay compensation in order to effect the termination. There is the view that the enormous growth in alternative forms of employment may have been induced by the inflexibility of the Labour Code. It may also have the added effect of inducing employers to contract out parts of their operations to small-scale businesses, which are known not to comply the Labour Code, particularly the minimum wage regulations.

Although the Labour Code, as amended, still retains some features of a largely imposed legal framework that are inconsistent with a modern democratic environment, the provisions of the Labour Code were being reviewed at the time of this research. Not only was this review intended to remove the vestiges of the Marcos era, but it will also seek to respond to the clamour for flexibility in labour regulations while at the same time protecting the rights of workers.

<sup>17</sup> See Integrated Labour and Labour-Related Laws. (2000 Edition), Manila, Institute for Labour Studies, DOLE, 2000 and the accompanying Rules and Regulations Implementing the Labour Code and Related Laws. Manila, Institute for Labour Studies, DOLE, 2001.

<sup>18</sup> Executive Order No. 111 of 24 December 1986, "Amending Certain Provisions of the Labour Code of the Philippines, as Amended".

It should be noted, nevertheless, that the legal framework, as entrenched in the Philippines' 1987 Constitution and the Labour Code of 1974 are somewhat biased in favour of the formal wage employment sector which, as shown in the previous chapter, probably account for no more than 5 per cent of the total formal sector wage employment in 2002.<sup>19</sup> This is the segment of the labour force where labour laws and employment regulations are applicable. Outside is the large informal economy, constituting more than 50 per cent of the total employed. Critics continue to harp on this limited coverage of the employment laws, a fact which is not unrecognized by government. In fact, as will be shown later in this chapter, several legislative measures have and are being taken to redress this imbalance in the treatment of the various segments of the labour force.

## The social partners

### The workers

The labour movement in the Philippines is faced with the problem of multiplicity of organizations and fragmentation. The unions operate from several ideological positions, which, for the sake of simplicity, can be described as the left, right and centre.<sup>20</sup> More important for our purpose is to suggest, as will be shown later, that chronic divisions in the labour movement has created competition among the unions, undermined representation, which inevitability weakened their voice, at enterprise level, and at tripartite national and provincial level. The several layers in the union structure are, to say the least, confusing and divisive. In any event, the starting point for this analysis is to attempt to describe the complex structure of the labour movement in the country. As Table 2-1 shows, there were 15,191 unions in the country as at June 2001. These included 9 central labour confederations, 166 federations, 557 independently registered affiliates (of federations), 7,349 independent unions, 9 workers' associations at regional level, and 794 public sector unions. This structure can be divided into 3 broad groups.

**Table 2.1: Union membership in the Philippines, June 2001**

Type of unions – Private Sector	Number of unions	Membership
Central confederations	9	
Union federations	166	450,488
Local/chapters	6,312	300,395
- enterprise-based	6,277	298,976
- workers' assoc.	35	2,319
Independently registered affiliates	557	150,093
- enterprise-based	552	149,760
- workers' assoc.	5	333

Source: Statistical Update on Unions and collective agreements. Second Quarter, 2001. Bureau of Labour Relations, Department of Labour and Employment, Manila

<sup>19</sup> For example, Section 3 of Article XIII of the Constitution states that the State «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. They shall be entitled to security of tenure, humane conditions of work, and a living wage».

<sup>20</sup> In the Philippines, it is common in public discussion to refer to the various federations and central labour confederations as 'moderates' 'progressives' or 'militants'. In the author's view, these labels are largely superficial and have to be used with great caution. First, because of the fluid circumstances of many unions, it is difficult and unrealistic to give a precise description of which union is this or that. Second, any union can be moderate or militant, depending on the issue or circumstances.

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**Enterprise (local) unions:** There were 13,307 primary unions in the private sector, plus 794 unions in the public sector, bringing the total number of primary unions to 15,191 as at June 2001. Because collective bargaining takes place at this level, these unions play a crucial role in labour relations in the country. Enterprise unions include local branches or chapters of federations which have been registered with the DOLE as autonomous independent unions. According to the records of the DOLE, there were 7,349 independent unions, 88 per cent of which operate at enterprise level. An example of an independent union would be the National Union of Workers in Hotels, Restaurants and Allied Industries, NUWHRAIN, an affiliate of the Alliance of Progressive Labour, APL. This union has local branches in 35 enterprises in the country. A similar number of enterprise unions operate as 'local divisions or branches' of general unions or union federations, the latter being the legal entity registered with the DOLE. Today, there are 6,277 local divisions or chapters, representing nearly 300,000 members. To this group may be added a further 552 enterprise-based unions which are independent unions, but are affiliated to some of the federations. They are different, however, because they do not owe their existence to a federation, having been registered in their own right by the Department of Labour.

**General unions/federations:** There were 166 unions operating both as general, industrial unions, as well as federations, as at June 2001. This category of union organization represented 6,312 local divisions and chapters, or a total membership of 450,488 workers. At the same time, some 552 independently registered unions are affiliated to them, bringing the total representation of the general unions and federations to 600,581 or 43.5 per cent of total union membership. While bearing in mind that the data on union structure and organization is somewhat inadequate, such information as exists does suggest, as shown in Table 2.1, that general unions/federations were in a minority, when compared with the 7,349 independent unions that were not affiliated. These independent unions had a cumulative membership of 739,882, or 53.5 per cent of total union membership in the country.<sup>21</sup>

One notable example of a general union cum federation is the FFW. Established in 1950, the FFW is perhaps the oldest of the labour federations in the country. In recent years, it has operated also as a central labour confederation, with as many as eight industry unions/federations based in diverse industrial sectors such as textiles and clothing, chemical and pharmaceuticals, wood and pulp, commerce and financial, transport and communication, schools and hotels and restaurants. In 1994, the Federation's national convention approved a resolution to transform the organization from a traditional trade union into a social movement, undoubtedly in recognition of the changing labour market structure in the country.

As a result of this transformation, the Federation, like similar labour organizations, has brought into its fold women, young people and farmers, and several informal sector groups. There is no record of the proportion of such members in the Federation. However, on the basis of its representation in both the industrial and sectoral groups, the FFW claims a total membership of 250,000. Membership claimed at the various levels of union organization cannot be verified because there are no reliable statistical data, and this is further complicated by claims for the informal economy and civil society for which figures are largely unavailable.

**Central labour confederations:** Above the general unions/federations in the hierarchy, there were nine central labour confederations in the country as at June 2001. However, government records, based entirely on officially registered unions, indicated that only four of these central confederations, namely the TUCP, NCL, PDMP and LMLC, are active in labour relations. These four claimed a total membership of 126,136. In so far as collective bargaining is concerned, the four confederations appear to cover more workers than their claimed membership. Thus, as shown in Table 2-2 below, total workers covered by collective agreements, negotiated by the unions represented by the central labour confederations were put at 151,752 as at June 2001. While this may be true, to the extent that the

<sup>21</sup> It should be noted that some of the 794 public sector unions, representing 192,000 workers, are also affiliated to the general unions cum federations.

collective agreements are extended to non-union workers in the industries concerned, there are no reliable statistics to confirm this.

As to the other central labour confederations, there is no information available on the size of membership or the extent of their involvement in collective bargaining. It is nevertheless generally believed that several of their affiliated unions are actively involved in labour relations. Some of these unions engage in collective bargaining, but are not so registered by the Department of Labour. One rough estimate suggests that about 1000 collective agreements are not registered with the DOLE.<sup>22</sup> As a result, the official records do not reflect the full extent of collective bargaining in the country. This is not to deny the important point that, despite the very large number of unions, only a small fraction, about 2500, engage in collective bargaining.

**Table 2.2: Claimed membership of central labour bodies**

<b>Central Labour Confederations</b>	<b>No. of Federations</b>	<b>Reported Branch/Chp.</b>	<b>Reported Members</b>	<b>CAs</b>	<b>Workers' Covered</b>
TUCP	47	1,494	65,636	575	85,725
APL	n.a.	n.a.	n.a.	n.a.	n.a.
TUPAS	n.a.	n.a.	n.a.	n.a.	n.a.
NCL	9	977	42,499	246	41,090
FFW	n.a.	n.a.	n.a.	n.a.	n.a.
KMU	n.a.	n.a.	n.a.	n.a.	n.a.
PDMP	5	141	8,063	98	13,616
BMP	n.a.	n.a.	n.a.	n.a.	n.a.
LMLC	14	210	9,938	91	11,321
<b>TOTAL</b>	<b>75</b>	<b>2,822</b>	<b>126,136</b>	<b>1,010</b>	<b>151,752</b>

Sources: *Unpublished records* of the Bureau of Labour Relations and other sources

n.a. = not available

Undoubtedly, the key player in industrial relations, tripartite cooperation specifically, is the TUCP. This central labour confederation serves as ECOP's counterpart in the tripartite institutions. While it is true that the TUCP does not enjoy the same exclusive representative status as the employers' body, it is undoubtedly the leading advocate under the tripartite system on the worker's side in conciliation of interests.<sup>23</sup> Nevertheless, mindful of the declining membership in trade unions, the TUCP, like some other labour organizations, modified its constitution in 1987, enabling it to organize the informal economy, admit affiliates or form a strategic alliance with informal economy groups. Today, the TUCP has an alliance with the large Informal Sector Coalition of the Philippines, a group of five national organizations comprising women, young people, home-based workers and farmers.<sup>24</sup> The membership of this alliance cannot be verified, although it maintains that 38 per cent of its claimed membership of 750,000 comes from the informal economy. It is difficult to reconcile the discrepancy between the official figures in the Department of Labour with those claimed.

The central labour confederations have of late been engaged in bipartite dialogue with the employers on matters of mutual interest to business and labour. This development demonstrates the intensity of the effect of globalization in the labour market and the need for both sides in the labour market to engage in constructive dialogue on how to respond to these developments. Consultation of

<sup>22</sup> Traub-Merz, loc. cit.

<sup>23</sup> See, for example, the statement by a top official of the TUCP at the National Tripartite Workshop on Social Dialogue in the Philippines. Makati City, Manila. 7 May 2002.

<sup>24</sup> The Informal Sector Coalition of the Philippines is made up of the following national organizations: BSK, PATAMABA, KAKASAMA, TUCP and YES.

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this type will no doubt reinforce mutual trust and promote confidence among two of the major partners in social dialogue and enhance their joint role in the country's socio-economic development.

**Labour alliances:** Another level in the union structure or organization involves alliances of trade union federations, community and workers' associations, cooperatives and central labour bodies. None of these alliances are legally registered as trade unions. Nevertheless, because they bring together various trade unions' views and those of other social movements, they are particularly useful as confidence-building groups, whose aim is to discuss issues of common interest. This has yielded important dividends, as these alliances have often succeeded in presenting a united position on key issues to the Government, for example by formulating several tripartite declarations and accords. These relationships are crucial in order to strengthen the voice of labour in social dialogue and broaden the consultative process. Again, given the volatility of trade unions and the nature of the alliances, it is difficult to give a precise picture of their representation. What appears to be true is that all the central labour confederations and some federations are leading members.

Labour alliances operate in various ways in the labour field, sometimes as the voice of labour, and at other times as the voice of community or cooperative groups. In all cases, they are alignments of local unions, labour federations, independent unions and central labour confederations. Given their orientation as multi-purpose organizations, the alliances are unavoidably, if to varying degrees, drawn into the political process. Most politically-aligned of them all, perhaps, is the KMU, with its affiliation to the communist Bayan Muna party, which has three seats in Parliament. As an affiliate of this party, the KMU is very effective in bringing labour market issues into the political arena. It regularly opposes public policy, and prefers to raise labour market issues in public rallies and demonstrations rather than use the established medium of consultation and negotiation. Ironically, a desirable by-product of the KMU's uncompromising stance may be to keep the so-called moderate and progressive unions alert to their responsibility to their membership and society at large.

Unions and recruitment of members: Bearing in mind the structure and membership of trade unions described above, one has to be extremely circumspect concerning the data on union membership, partly because there are no comprehensive and generally accepted data on union size, and claims by trade unions are for the most part exaggerated. Sometimes, unions define their association with the informal economy groups also in membership terms, and may claim that most of the 2.8 million informal (farm) workers are union members. In other words, generally accepted data does not exist. One assessment of union organization and strength in terms of the registration procedure and certification to engage in collective bargaining puts the real membership of unions in the country at between 350,000 and 600,000, significantly less than the over 1.3 million members shown in Table 2.1 above.<sup>25</sup>

For economic and operational reasons, most trade unions have confined their organizational efforts to large and medium-sized enterprises. As indicated in Chapter 1, this category of business accounts for only 4 per cent of all firms registered in the country. Also, of the estimated wage earning population of 14.4 million workers, only about 450,000 workers were covered by collective agreements, representing just 3.1 per cent of wage-earners.

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<sup>25</sup> Rudolf Traub-Merz, "Towards a New Philippine Labour Movement". Manila, Friedrich-Ebert-Stiftung, 2001, unpublished manuscript.

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**Table 2.3: Summary of union membership in the labour force**

Labour force (2000)	32,808,000
Total employment	29,155,000
Wage employment	14,438,000
Organized workforce	1,382,128
Coverage of collective agreement	450,000
Union density <i>in terms of+</i>	
labour force	4.2 per cent
total employment	4.7 per cent
wage employment	9.5 per cent
CA coverage (% of union members)	32.6 per cent

Therefore, based on the existing data, inadequate as it is, a rough estimation of union density is about 9.5 per cent (Table 2.3). Equally revealing is that unions provide direct collective bargaining rights to only 32.6 per cent of claimed membership. However, it should be borne in mind that the complex process of certification of union election and collective bargaining rights has in some sense limited the representative status of trade unions, and in turn their access to collective bargaining and social dialogue. Critics continue to call for a simplification of the process. Undoubtedly, a liberalized process will improve union organization, and extend the coverage of collective bargaining and social dialogue institutions to many of those presently excluded.

Unions' organizational strategy recognizes the fact that about 96 per cent of business has less than 20 workers each. Indeed, 77 per cent have less than five employees. Explaining the benefits of organization to this category of workers can be an extremely challenging task. In a situation such as this, it becomes extremely difficult for unions to organize and service workers in small businesses. In the face of this reality, unions have usually confined their efforts to encouraging, and sometimes pressuring, the employers concerned to pay the statutory minimum wage. The effectiveness of this strategy depends, of course, on how well the union or federation can mobilize to cover small businesses.

Even among large and medium-sized firms, several continue to create obstacles to union organization. The case of the NUWHRAIN, one of the best-organized unions in the country, illustrates the difficulties unions have in organizing. This union has a membership of about 8,000 members, but only half of the membership have collective bargaining rights, and thus pay dues. The union has confined its recruitment to the bigger hotels and restaurants, where its 8,000 members represent only about a third of the potential members in the industry. More and more, too, the union has faced declining membership because employers' are turning increasingly to casual employment. In other words, the majority of workers in this industry, as in other economic sectors, are without union representation, ostensibly due to employers' non-cooperation.

If we accept that a key criterion for assessing the strength of a trade union organization is the extent of its role in collective bargaining, the prominence of the union at enterprise level gives the union leadership at this level real influence in wage determination. Union leaders who are unable to participate in collective bargaining, either because of their failure to achieve formal registration or to be certified for collective bargaining, or because of the hostility of employers, tend to fall back on operating outside the institutional framework, which is not always beneficial to the rank and file.

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## ***The employers***

There are a large number of business and employers' organizations in the Philippines, including no less than 40 formal organizations of businesses. Historically, the Chamber of Commerce of the Philippines (CCP) and the Philippine Chamber of Industries (PCI) were the two oldest and most influential business organizations in the country. They later merged into one association known as the Philippine Chamber of Commerce and Industry. Other business bodies also exist, including the Makati Business Club, an influential business lobby comprising some 250 of the biggest companies operating in the central business district of Metro Manila.

Before the establishment of the Employers' Confederation of the Philippines (ECOP) in September 1975, each of the two main chambers above had a committee on labour and employment issues. However, the desire among the various business bodies to have a united voice on labour and employment issues, coupled with the orientation of the Labour Code towards tripartite cooperation, led several business bodies to establish ECOP as a confederation to present employers' views and take action in the labour field. ECOP is today generally and officially recognized in the country "as the umbrella organization and 'single voice' for the entire business community on important national issues related to labour and social policies".<sup>26</sup>

The Confederation draws its membership almost exclusively from large and medium-sized firms. Such firms in the Philippines number about 81,000 or 9 per cent of registered businesses and enterprises in the country. This group of employers collectively have about 2.5 million workers, which constitutes the base of organized labour. Within this category of businesses, ECOP has 500 direct corporate members, which are generally large and medium-size companies. Apart from this, however, the Confederation represents all major industrial associations in the country, including, as mentioned earlier, the Philippine Chamber of Commerce and Industry, the Philippine Exporters Confederation Inc., the Federation of Filipino-Chinese Chambers and the American Chamber of Commerce of the Philippines, European Chamber of Commerce of the Philippines and the Japanese Chamber of Commerce and Industry of the Philippines.

The Philippine Chamber of Commerce and Industry has over 100,000 direct and indirect members, including small and micro-enterprises, while the Philippine Exporters Confederation has about 2,900 regular members.<sup>27</sup> Most of these associations are represented on the National Advisory Council of ECOP. Business groups such as the Makati Business Club maintain an informal alliance with ECOP, while several companies in the club have individual corporate membership. In other words, ECOP is a highly representative employers' body.

At the same time, it needs to be borne in mind that the very large group of small-scale enterprises and micro-businesses, which represent roughly 96 per cent of registered businesses are, for the most part, outside the direct sphere of ECOP. They are usually members of the Philippine Chamber of Commerce and Industry and its local chambers and the Philippine Exporters' Confederation and its sectoral groups. Collectively they account for the majority of between 4 and 5 million wage-earners in the formal sector. However, ECOP favours extending the coverage of the Labour Code and its processes to the non-organized SMEs. Furthermore, the Confederation supports a favourable legal and

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<sup>26</sup> Raoul M. Inocentes, "The ECOP Story". Philippine Employer. Special Edition. Vol. 12, No. 9, September 2000, p. 31. On May 1, 1978, a Presidential Letter of Instruction (LOI) No. 688 recognized ECOP as the single voice of the employers' sector to be consulted by Government together with its counterparts in the labour movement.

<sup>27</sup> For full details see Maria A.A. Ortiz, ECOP Constituency, Positions and Priority Issues for Consideration in the National Plan of Action for Decent Work in the Philippines. Manila, ECOP, November 2001.

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institutional environment that will enable SMEs to enter the mainstream of business by organizing themselves into viable trade and business associations for better and stronger representation.<sup>28</sup>

Under the authoritarian rule of President Marcos, ECOP was less active and, for the most part, its operational strategy then was to react to government policies and trade union pressures. However, with the advent of constitutional democracy in the late 1980s and the upsurge in labour militancy, the Confederation has repositioned itself not only to defend its constituents' interests, but to mediate in union-initiated conflicts, and take an active part in tripartite consultation, most significantly in the Tripartite Industrial Peace Council.<sup>29</sup> ECOP has had to strengthen its organizational capacity and services in order to confront the serious challenges posed by a largely adversarial industrial relations system, a factionalized and politically driven labour movement, and a Government actively involved in the wage-setting system.

As an organization concerned with labour market issues, ECOP is proactive on several issues which are subjects of tripartite consultation. For example, on the increasingly contentious issue of the minimum wage, the Confederation has stood out strongly in support of the tripartite mechanism, and has resisted unequivocally the tendency to take the wage issue out of that forum to 'street dialogue' advocated by one section of the labour movement.

The Confederation recognizes its enormous responsibility to mobilize its constituents to meet the social challenge of employment, and has in recent years been party to two tripartite accords aimed solely at job creation. The first accord, in February 1998, committed employers to exhausting all possible cost-saving measures before resorting to lay-offs, while unions were to embark on strikes only as a last resort. A second accord, signed in November of the same year for an indefinite period of time, provided more comprehensive provisions on what might broadly be described as the "social responsibility of business". In between the two accords, in August of 1998, the Confederation convened a "Business Forum on the Jobs Crisis" and came up with a Declaration. In it the business community affirmed its "collective concern on the urgent need to sustain present employment; to ease the plight of millions of unemployed and under-employed Filipinos; and to put the economy back on the track of recovery and sustainable growth". The Declaration committed the business community to "cooperate with the Philippine Government in managing the country's fiscal and trade deficits and in stabilizing the peso and prices of basic commodities" and also to "the general task of saving and creating employment".<sup>30</sup>

In furtherance of the Confederation's commitment to effective implementation of the earlier accords, as well as to respond to the economic and social issues confronting Philippine employers and business under changing global market rules, ECOP launched in September 2001 a High-Level Forum on the Global Compact.<sup>31</sup> At its 23rd national conference, the Confederation discussed the theme, "Global Compact Initiative: Reaching Out and Making It Work". This particular conference was unique because it marked the first attempt by the Confederation actively to involve enterprises and micro-level representatives of labour and community-based organizations in the debates at the conference. The conference was intended to stimulate cooperation with the social partners and crystallize arrangements

<sup>28</sup> Miguel B. Varela, "Strengthening Freedom of Association and Representation in a Globalizing Economy". Philippine Employer. Special Edition. Vol. 12, No. 9, September 2000, pp. 45-47.

<sup>29</sup> Vicente Leogardo, "ECOP at 25: Challenges for an Employers' Organization in the coming Years". Philippine Employer. Special Edition. Vol. 12, No. 9, September 2000, pp. 57-59.

<sup>30</sup> Declaration of Commitment to Employment and Business Creation" signed in the New World Hotel, City of Makati, August 27, 1998. Cited Vicente Leogardo and Ina Ortiz, "Philippines Country Paper" in Review of Human Resource Management and Industrial Relations Practices in response to the Asian Financial and Economic Crises. Bali, Indonesia, NICC-ACE Workshop. 23-24 February 2000, pp.17-19.

<sup>31</sup> The remainder of this section is based on correspondence with Ina Ortiz of ECOP.



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for ongoing development of the capacities of its members, including SMEs, the informal economy and farming sector enterprises, to meet both the economic and social standards of global markets.

The Confederation has intensified direct bipartite dialogue between its federations and the labour movement. In recent times, the employers have held bipartite meetings with the various labour federations, including the TUCP, FFW and LSM, basically to promote dialogue between the two parties involved in day-to-day relations at enterprise level. Part of this discussion addressed a variety of issues, including the promotion of the global compact as a framework of social dialogue between employers and labour as well as making the global compact work among enterprises throughout the continuum of the supply chain.<sup>32</sup>

A further step in employers' responsiveness to the social environment was ECOP's acknowledgement of the evolving social and political environment of the labour market in the Philippines. For example, ECOP recognized the overriding need to work with a larger constituency than its traditional partners. In this regard, the Confederation has in recent years been party to community social accords involving business, labour, local government and civil society in order "to join hands in fashioning an environment conducive to the sustenance and creation of jobs and businesses".<sup>33</sup>

In a nutshell, there is hardly any doubt that ECOP is fully committed to social dialogue. The Confederation has positioned itself actively to promote among its constituency the adoption of policies and practices that promote the fundamental principles and rights at work and a sustainable business environment in the country.

## **The Department of Labour and Employment**

The government department responsible for taking the lead in policymaking and implementation in the field of labour is the Department of Labour and Employment (DOLE). It is worth briefly explaining the role of the Department in so far as the promotion of overall industrial relations is concerned. Apart from the traditional functions of ensuring the independence and effective functioning of workers' and employers' organizations, as well as promoting collective bargaining and peaceful relations in the workplace, the Department has supervisory responsibility for the tripartite consultative processes that began as far back as the 1970s, first with the tripartite conference, and later the Tripartite Industrial Peace Council and other bodies, at national, regional and provincial level. Furthermore, the Department has overall supervision of agencies responsible for policy initiatives in a variety of areas, including setting the minimum wage and management of the dispute settlement machinery, both in the organized and non-organized sectors.

The Department performs its functions through a network of 16 regional offices and several provincial offices throughout the country. These offices are staffed by a core of about 250 labour officers and inspectors who are responsible for ensuring compliance with the various labour standards and regulations. The DOLE also collaborates with other government departments in certain areas of labour administration, particularly in specific industries or tripartite bodies, notably the Department of Industry and Trade, and the Department of Tourism, both of which complement the role of the DOLE in labour relations practice in their respective economic sectors.

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<sup>32</sup> See Miguel B. Varela, Statement at the National Tripartite Seminar on social Dialogue in the Philippines. AIM Conference Center, Makati City, 7 May 2002.

<sup>33</sup> Varela, *op. cit.*, p. 47.

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Through the network of labour offices and tripartite institutions in the country, the DOLE effectively promotes social dialogue in the labour market. Over the years, the Department has played an important role in creating and facilitating a suitable environment for social dialogue, whether through collective bargaining at enterprise level, or through tripartite and tripartite-plus institutions. According to Patricia Sto Tomas, the Labour Secretary, the role of the State has been to “create an affirming environment in which the contribution of employers, workers and other groups are solicited and valued”.<sup>34</sup>

In doing this, the Department faces major challenges, including broadening the participation of all relevant stakeholders in social dialogue, and in ensuring that the rights of workers to organize and form unions, and to engage in collective bargaining are not impeded by any legal or administrative procedures. Another important challenge is the extent to which the DOLE is able to enforce the Labour Code, minimum wage orders, tripartite accords and bipartite agreements. For example, granted that there is institutional machinery for resolving disputes when they occur, the preventive mechanism, through adequate inspection for compliance, is probably inadequate.

Compliance with minimum wage orders is quite low, as it is generally acknowledged that many small businesses do not apply the minimum wage. At the same time, labour inspection for compliance is grossly inadequate, partly for reasons of the geographical spread of the country, and partly because of the difficulty inherent in enforcing minimum wage orders on a rather large number of small enterprises. In particular, given a total inspection workforce of under 250 inspectors, inspections are said to cover no more than 50,000 to 70,000 establishments annually. Most probably, the majority of the establishments inspected are large and medium-sized businesses, where surveillance for compliance with the Labour Code and policies is far easier.

## **The Labour Market, Trade Unions and the Informal Economy**

Given the structure of the labour market, with a large proportion of formal employment being in small and micro-enterprises, and a much larger proportion in the informal economy, trade union representation is, as previously shown, insignificant in these categories. Conscious of the critical role of these groups in the national economy, the Government has introduced legislation supporting the organization of the informal economy and recognizing the rights of those concerned. The legal framework has thus supported the evolution and role of cooperative associations and peoples’ organizations.<sup>35</sup> Through these organizations, informal operators have legal avenues to pursue improvements in their working conditions.

In this regard, three important pieces of legislation, focussing on the informal economy and small enterprises are worth mentioning here. The Republic Act No. 7607, the "Magna Carta for Small Farmers" and the Agriculture and Fisheries Modernization Act (No. 8435) both encourage informal sector workers to organize into what are generally referred to as ‘peoples organizations’, such as cooperatives and associations. These organizations have the right to be represented in decision-making boards of government agencies, such as the Philippine Coconut Authority, the National Food Authority and the Philippine Crop Insurance Corporation.<sup>36</sup> The Republic Act No. 6977, which created the Small

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<sup>34</sup> Opening Speech at the National tripartite Workshop on Social dialogue in the Philippines. AIM Conference Center, Makati City, 7 May 2002.

<sup>35</sup> For a review of this development, see J.V. Sibal and C.M. Tolentino, “Forms of Organizing and Bargaining: Focus on the Philippine Informal Sector”, in *Toward Decency and Fairness. Changing Work and Employment Relations in a Globalizing Asia*. Proceedings of the 4th IIRA Asian Congress. Manila, Philippines, 20-21 November 2001.

<sup>36</sup> *Ibid*, loc. cit.

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and Medium Enterprises Development Council (SMED), is responsible for promoting small and medium-sized enterprises. Organizations of SMEs have three representatives on the board of this council but, as Sibal and Tolentino argue, these members are marginalized and lack the capacity to participate effectively in decision-making.<sup>37</sup>

Also to provide a voice to workers in SMEs, as well as the informal economy, trade unions have stepped up their response to the challenge of organizing this enormous segment of the labour force. The various trade union organizations and labour centres have thus created alliances and collaborative mechanisms with civil society and women's organizations. Indeed, several unions are increasingly organizing non-wage workers in the informal economy, including youth, women's and farmers' groups, in an effort to provide them with a voice both in the labour market and the overall social and economic policy arena, although, as previously noted, no precise information can be given on the extent of organization or representation of unions in the informal economy.

In any event, it is clear that while the trade unions' traditional services, defending wage-earners' rights, are not of direct relevance to many in the new labour market, innovative adaptations are being made to provide services which improve the working lives and living conditions of workers in the informal economy. Such services are varied, and include support for the extension of the social security system to cover the informal economy, training and education, including basic and skills training, entrepreneurship and dispute settlement. It also includes legal services, such as civil and land cases in rural communities, assistance with low-cost housing, and marketing of informal economy workers' products. In addition, the central labour confederations, particularly the TUCP and the FFW, have teamed up to set up a Workers' Fund in 1987, a non-profit organization to assist workers' organizations and civil society groups to create socio-economic projects for workers.<sup>38</sup>

Quite apart from labour market and related issues, trade union organizations and some employers have used their alliance with civil society groups and non-governmental organizations to promote broader development issues. Very often, alliances of this nature are ad hoc and issue-focussed. For example, the tripartite partners are working with civil society groups in the National Peace Conference, the Freedom from Debt Coalition and anti-poverty campaign, organized under the auspices of the National Anti-Poverty Commission chaired by President Arroyo.

The question remains, nevertheless, as to how the growing concern with the organizational needs of the informal economy can effectively relate to the tripartite institutions. Clearly, civil society organizations appear to believe that decisions taken by tripartite institutions should normally address the needs of workers in this largest segment of the population. The critical challenge, therefore, is to see how civil society groups can make their voice and concerns heard, through direct or indirect representation, in existing labour market institutions.

<sup>37</sup> Ibid. loc. cit.

<sup>38</sup> Sandra Yu, "The Philippines" *In Trade Unions in the Informal Sector: Finding their Bearing*. Geneva, International Labour Office, 1999.

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## Chapter 3

### Overview: Collective bargaining and tripartism

#### *Collective bargaining and wage determination*

Collective bargaining is supported and actively promoted by the State. The right of workers to participate in the determination of wages and conditions of employment is enshrined in the Republic's Constitution. This right is available to all organized workers mainly through their unions. In larger and medium-sized enterprises, where collective bargaining take place, the minimum wage serves as the floor above which negotiation on applicable wage rates is based. However, the size of the labour force that has direct access to this machinery is exceptionally small, when it is recalled that collective agreements cover no more than 450,000 workers, or less than 4 per cent of the 14.4 million wage and salary-earners in the country. In the majority of cases, particularly in small-scale and micro-enterprises where there are no unions or where the union is not certified to conduct collective bargaining, the minimum wage invariably becomes the relevant wage for the majority of wage-workers in that sector.

For much of the organized sector, the minimum wage drives the collective bargaining process, in part because it is regularly reviewed, and in part because even in small-scale enterprises with little or no union activity, employers have adopted the minimum wage as the basis for determining the going wage in their establishments. The reasons why some unionized workers do not negotiate may include the superiority of the minimum wage to any wage the workers' union might be able to negotiate, a factor not unassociated with the inability of such unions to muster sufficient influence at the negotiating table. In cases such as this, reliance on the minimum wage process may have the effect of discouraging the use of the collective bargaining process in small enterprises.

Collective bargaining usually takes place at enterprise level. Here a local (or independent) union negotiates with company management on wages and conditions of service. Typically, the collective agreement has two sets of provisions. The first set, the 'political provisions', includes that the union is duly certified as the exclusive bargaining agent for the category of workers concerned during the life of the agreement. The second set, the 'economic provisions', covers all the terms and conditions of employment relating to remuneration. Unlike the former, which do not change during the life of the agreement, economic provisions may be re-negotiated before the end of the third year of the agreement, which is usually for a 5-year period. Depending on the circumstances of the parties, the re-negotiation may cover the whole collective agreement or, as is often the case, just a few issues such as wages. This is important bearing in mind that the minimum wage is normally reviewed annually.

Another significant characteristic of collective bargaining in the country is that once a union is certified as the bargaining agent and has a collective agreement, another union cannot enter the enterprise to represent the same workers while that agreement is in force. While these characteristics, i.e. the duration of negotiating collective agreements and bargaining rights may be seen as instrumental in stability in labour relations in enterprises and might nurture the labour-management relationship, certification for collective bargaining produces a competitive process that results in winners and losers. Where, however, unions see collective bargaining as competing to advance workers' rights, it can lead to acrimony and rivalry and promote an adversarial labour-management relationship. In the same vein, conducting collective bargaining at enterprise level tends to intensify pressure from employers for greater flexibility, as companies seek to adapt to an ever-changing competitive environment. This may

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to some extent explain why there is relatively little collective bargaining in industry, and a conflictual relationship in the workplace.<sup>39</sup>

As regards the minimum wage, this is determined by the regional wage boards operating in each of the country's 16 regions. Where necessary, the wage board may prescribe an industry minimum wage in a particular industry or locality. Most often, the wage board in the national capital region, Metro Manila, serves as the wage leader and the reference point for other regional wage boards. Since only a small portion of workers are covered by collective bargaining, the minimum wage serves as the basis for such negotiations and, in the case of non-unionized workers or where collective bargaining does not take place, the minimum wage is the applicable wage. During the last eight years, the daily minimum wage has increased by 93 per cent, from P145 in 1995 to its current rate of P280 in 2002. The role of the negotiating process in setting the minimum wage is open to debate. To the extent that the tripartite wage boards determine the minimum wage, negotiation and social dialogue are assured. However, from time to time negotiations reach a stalemate, leaving the government side to determine the minimum wage. The minimum wage thus determined is not always true to the tradition of negotiation.

In any event, a popular view is that the minimum wage is paid most often by the larger enterprises, which are generally members of ECOP. The majority of employers in the formal sector, largely small-scale and micro-businesses are known to pay less than the minimum wage. In such cases, the role of the union is to impress on the employers that they should adopt the minimum wage. However, according to DOLE inspection reports, an estimated 60-70 per cent of workers who should receive the minimum wage earn less.<sup>40</sup> The minimum wage process is a key social policy, but the manner of its determination and implementation may have the effect of eroding the value of the consultative and negotiating process. In workplaces where the minimum wage has supplanted collective bargaining, particularly in non-organized or small enterprises, the role of collective bargaining or, more appropriately, the consultative process, has been confined to the less controversial issues of benefits and conditions of service.

## **Dispute prevention and settlement**

The Government's policy approach to the settlement of trade disputes is well articulated in the 1986 Philippine Constitution. The Constitution states that "The State shall promote the principle of shared responsibility between workers and employer and the preferential use of voluntary modes of settling disputes, including conciliation and shall enforce their mutual compliance therewith to foster industrial peace".<sup>41</sup> Two key institutions are responsible for the prevention and settlement of labour disputes in the Philippines. One is the National Conciliation and Mediation Board, NCMB, a semi-independent arm of the Department of Labour, which is responsible for the prevention and settlement of trade disputes, particularly in the organized sector. The other is the tripartite National Labour Relations Commission, which is responsible primarily for the non-organized sector. A later chapter will examine in some detail these institutions, their structure and approach to dispute prevention and dispute settlement, and their contribution to industrial peace, social stability and national development.

In the context of the organized sector, where collective bargaining fails, a union intending to take strike action is required by law to give a minimum of 15 days notice in the case of an unfair labour

<sup>39</sup> Traub-Merz, loc cit.

<sup>40</sup> See Traub.Merz, loc. cit.

<sup>41</sup> Paragraph 3, Section 3 Article XIII.

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practice or 30 days for other grievances. During this period, the NCMB may attempt to mediate such disputes. In the same manner, the employer has a right to give notice of a lockout. If mediation succeeds, the parties sign an agreement, and it becomes a legal contract. Very often, where the mediation of the NCMB fails to bring about a settlement and the union gives notice of a strike, the employer counters by filing a petition to have the strike declared illegal, usually with the intention of discouraging the union from taking the strike option.

The Secretary for Labour may arbitrate on disputes of national importance before a strike notice is given, during or after the commencement of a strike. Thus, as can be seen in Table 6.2 below, the Secretary intervened in and settled 31 strikes/lockout notices in 1999 and 30 each in 2000 and 2001, and settled 12, 15 and 3 actual strikes respectively in those years. In assuming jurisdiction, the Secretary becomes personally involved in arbitration of the dispute. Where arbitration fails or becomes unnecessary, the Secretary may refer the dispute to the National Labour Relations Commission. Only through this process can the latter involve itself in a collective dispute. Except for such cases, the work of the NLRC, as will be shown later, is primarily concerned with disputes in the non-organized sector.

### **Tripartism and tripartite cooperation**

The remainder of this paper elaborates on some of the key tripartite (and tripartite-plus) institutions and processes in the Philippines. Meanwhile, this last section of the overview draws attention to the legal and institutional framework for tripartite consultation in the country. To start with, while the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) was ratified by the Philippines only in June 1991, tripartite consultation has a long history in the country.<sup>42</sup> As far back as 1953, a periodic national tripartite conference was introduced under the Industrial Peace Act (Republic Act No. 875) to enable Government, employers and workers to consider and adopt codes and principles for the promotion of peaceful labour management relations in the country. Subsequently, following the adoption of the Labour Code in 1974, tripartism was declared State policy by the Ferdinand Marcos regime. The Code states that “Tripartism in labour relations is hereby declared a State policy. Towards this end, workers and employers shall, as far as practicable, be represented in decision and policy-making bodies of the Government”.<sup>43</sup> To achieve this objective, two institutional approaches were adopted, namely the periodic national tripartite conference and the creation of tripartite institutions to address specific labour market issues. Table 3.1 below shows several of the tripartite bodies involved in various aspects of the labour market in the country.

Tripartite cooperation at lower level includes regional, provincial and industry consultative bodies, such as the Geographical Industrial Tripartite Council. Moreover, most of the tripartite-plus institutional framework, such as the NLRC, TESDA and the NWPC, as well as the NCMB (which is not tripartite) operates at regional and, in some cases, provincial level. Examples of tripartite institutions at industry/sectoral level include the Tourism Industrial Board and the Hotel and Restaurant Tripartite Consultative Board. In other words, tripartism in the Philippines operates in a network of inter-related systems of consultation. A mechanism for dialogue at all levels of decision-making, its effectiveness depends crucially on the extent to which the various institutions and levels are linked operationally.

<sup>42</sup> For a discussion of the origin of the tripartite conference, see B.E.R. Bitonio, “Social Dialogue and Tripartism in the Philippines”. Paper presented at the Asia-Pacific Regional Seminar on Tripartism. Bangkok, March 2001. The enactment of the Industrial Peace Act coincided with the ratification of two important conventions, namely the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

<sup>43</sup> Article 275 of the Philippine Labour Code.

**Table 3.1: Major tripartite and tripartite plus institutions**

\*The institutions marked with an asterisk are discussed in this paper.

<p><i>Consultative institutions</i></p> <ol style="list-style-type: none"><li>1 Tripartite Industrial Peace Council (TIPC)*</li><li>2 Industrial Tripartite Councils (ITCs) at industry level (e.g. Sugar Industry Tripartite Council, Hotel and Restaurants Tripartite Consultative Board).</li></ol> <p><i>Policy-making institutions</i></p> <ol style="list-style-type: none"><li>3 Overseas Workers' Welfare Administration (OWWA)</li><li>4 Technical Education and Skills Development Authority (TESDA)*</li><li>5 Occupational Safety and Health Center (OSHC)*</li><li>6 National Wages and Productivity Commission (NWPC)*</li><li>7 Philippine Overseas Employment Administration (POEA)</li><li>8 Employees' Compensation Commission (EEC)*</li><li>9 Tripartite Voluntary Arbitration Advisory Council (TVAAC)*</li><li>10 Social Security Commission (SSC)*</li><li>11 Home Mutual Development Fund (HDMF)</li><li>12 Philippine Economic Zone Authority (PEZA)</li><li>13 Philippine Health Insurance Corporation (PHIC)</li><li>14 National Anti-Poverty Commission (NAPC)</li></ol> <p><i>Quasi-judicial institution</i></p> <ol style="list-style-type: none"><li>15 National Labour Relations Commission (NLRC)*</li></ol> <p><i>Quasi-legislative institutions</i></p> <ol style="list-style-type: none"><li>16 Sixteen regional tripartite wages and productivity boards (under the NWPC)</li></ol>
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Source: Bureau of Labour Relations, unpublished records. Department of Labour and Employment, Manila.

Bearing in mind the prevailing political environment of the 1970s and 1980s, few dispute that the introduction of tripartite consultation was a corporatist political strategy by the Marcos regime to control labour market institutions, albeit within constitutional means.<sup>44</sup> It has also been argued that the tripartite approach to labour market issues, such as wages and labour regulations, and periodic tripartite conferences, was intended by the Government to convince critics that it pursued consensual processes. Despite views such as these, the consultative mechanism was of great importance to the regime's transformation of the economic development strategy from import-substitution industrialization to an export-led industrial strategy.<sup>45</sup>

<sup>44</sup> For a historical account of this process, see R. Ofreneo and B. Macaraya, Country report on tripartism and tripartite mechanism in the Philippines: Strengths and weaknesses. Manila, ILO-Asia Pacific Project, Manila, 1994, Bach M. Macaraya, Tripartism in the Philippines. An assessment. Manila, ILO-SEPART, 2000, and Virginia A., Teodosio, "Tripartism and the Role of the State in a Period of Restructuring under Globalization" Unpublished paper, School of Labour and Industrial Relations, University of the Philippines, 2001.

<sup>45</sup> For more on this development strategy as it applied to industrial relations see, Saros Kuruvilla, "Linkages between industrialization strategies and industrial relations/human resource policy: Singapore, Malaysia, the Philippines and India", *Industrial and Labour Relations Review*. 49 (4), 1996, pp. 646-649.

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Be that as it may, the tripartite tradition was firmly established, and the governments that emerged after the 1986 revolution have used the mechanism in a more positive manner to regulate a host of labour market issues in the country. Indeed, Article XIII, Section 16 of the Philippines Constitution of 1987 established the right of the “people and their organizations to effective and reasonable participation at all levels of social, political and economic decision-making” and asserted the obligation of the State, by means of legislation, to “facilitate the establishment of adequate consultation mechanisms”.

Finally, gender appears to have been mainstreamed into all the tripartite institutions. Thus, there is, to a large extent, a reasonable gender distribution in the composition of both the decision-making and administrative organs of the institutions in the country. In fact, as will be indicated in various parts of this paper, the country has made commendable progress in creating a gender sensitive workplace and social dialogue. The policy-making functions of several of the tripartite institutions, such as the Occupational Safety and Health Centre and the National Wages and Productivity Commission are in most cases headed by women.



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## Chapter 4

### Promotion of consultation and good industrial relations

This chapter elaborates on the key areas of the labour market in which tripartite consultation has been used for policy formulation and implementation. The scope of the consultative process is broad and not exhaustive, particularly bearing in mind that the tradition of social dialogue is entrenched and characterizes overall governance in present-day Philippines.

As early as the 1950s, the Government had recognized the need to promote peaceful industrial relations in the workplace. In 1953 the Government enacted the Industrial Peace Act, embodying some of the provisions of the Freedom of Association and the Right to Organize Convention (No. 87) and the Right to Organize and Collective Bargaining Convention (No. 98).<sup>46</sup> The law provided for the setting up of labour-management councils in the workplace. The councils were to formulate social accords by workers and employers. The enactment of the Labour Code in 1974 more or less replaced the labour-management councils with the introduction of the Tripartite Industrial Conference, which was to meet periodically to formulate policies, recommendations and social codes in different industries to promote harmonious industrial relations. Participation in this periodic conference was broad and diverse, embodying the various interests within the trade union movement, as well as others not traditionally involved.

### *Social dialogue through tripartite conferences*

The process of consultation through the tripartite conference was streamlined in 1990 with the establishment in that year of the national Tripartite Industrial Peace Council (TIPC) by the Government of President Aquino. The Council operates at national, regional and sectoral level. The TIPC has 12 government members, and 20 members each from employers' and workers' organizations. Apart from the Department of Labour which has the overall mandate for labour issues, other key government departments and agencies are represented, including the Departments of Trade and Industry, Interior and Local Government, Agriculture, Environment and Natural Resources, Energy, Agrarian Reform, Tourism, Social Welfare and Development, Transport and Communication, and the National Economic Development Authority.<sup>47</sup> Such a broad representation is significant as it ensures not only a coordinated approach to policy formulation and implementation but will facilitate implementation of any consensus that might be reached. At any given time, women make up about 40 per cent of the tripartite representation in the Council.

On the employers' side, representation in the TIPC is primarily by ECOP, which has 10 representatives, usually including nominees from other business interest groups, such as the Personnel Managers' Association of the Philippines, Philippine Exports Association and Philippine Chambers of Commerce and Industry. There are also two representatives from the Federation of Philippine Industries. Workers' representatives traditionally come from the TUCP, LACC, NCL, PDMB, APL, KPMM and a number of independently registered unions, although the latter have tended to operate mainly at regional or industry level. The TIPC has an executive committee comprising seven members each from the employers' and workers' organizations and government officials.

<sup>46</sup> The enactment of the Industrial Peace Act of 1953 coincided with the ratification of these two important Conventions in the same year.

<sup>47</sup> Bitonio, loc. cit.

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At national level, the TIPC provides an overall policy framework for promoting better labour and management relations, addressing labour market issues as diverse as wages, dispute settlement, vocational training and social protection, in the belief that good labour relations and labour market policies will stimulate investment. Throughout the 1990s, the tripartite conference played an important role in addressing broad national and sectoral issues that directly or indirectly impacted on the operation of the labour market. During this period, a total of six tripartite conferences were held resulting in accords and declarations. The Accord that resulted from the 1990 tripartite conference led to the issuance of Executive Order No. 403 which established the Tripartite Industrial Peace Council, while the 1992 Conference re-enacted the Social Contract for Development Based on Justice and Peace. In 1994, the tripartite conference resulted in a Joint Statement by the tripartite partners in support of structural reforms and trade liberalization. Subsequent accords and declarations have dealt with no less important subjects, including globalization, human resource development, safety and health, employment, employment security, rules on contracting and subcontracting, labour relations and wages and incomes policy.<sup>48</sup>

The Council has also served as the clearing-house for the ratification of ILO Conventions and the formulation of major DOLE departmental orders, and rules and regulations to implement the Labour Code. In 1997, this process led to the signing of a Memorandum of Understanding containing the country's support for ILO's Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.<sup>49</sup> The Council has deliberated on the Worst Forms of Child Labour Convention (No. 182), and recommended its ratification. The TIPC has also been involved in the formulation of a law on people with disabilities, a comprehensive employment policy, and contributed to guidelines requiring government departments to address the serious issue of child labour, as well as a tripartite affirmation of the role of training in enhancing competitiveness in the aftermath of the 1997 Asian financial crisis.

The TIPC has also focussed attention on labour relations at regional and provincial level, as well as in specific industrial sectors. Generally, regional and sectoral tripartite councils oversee improvement in labour relations in a specific industry, and promote the welfare of workers. In the Sugar Industry Tripartite Council, for example, a Social Fund was created to collect contributions from workers and employers. It is used to finance socio-economic projects for the benefit of workers, and provide assistance to contributors who are in need of assistance. At this level there are industry tripartite councils (ITCs) in key industries. The earliest of such councils was the Hotel and Restaurant Tripartite Peace Council, established in 1989 and the Clothing and Textiles Industry Tripartite Council, established in 1990. The Sugar Industry Tripartite Council was established by the Republic Act No. 6982 of 1992, while the Automotive Assembly Industry Tripartite Council was established in 2001. Another council is planned for the construction industry. Tripartite councils at this level are intended to focus attention on problematic labour relations issues and formulate policies to promote industrial peace in the particular industries. When the Council for the clothing and textiles industry was set up in 1990, it was in response to serious labour disputes, while the new automotive industry council was set up for precisely the same reason.

Overall, consultation and cooperation through tripartite mechanisms has no doubt contributed to the effectiveness of labour market policies. Clearly, the positive results of the process are highly instrumental in sustaining interest in the machinery as a medium for information sharing, consultation and negotiation. Apart from eliciting the views of and collaboration among the social partners, highly desirable in itself, the process has contributed to broader consultation among the various stakeholders. By serving in an advisory capacity to the Secretary of Labour and Employment, the TIPC has improved the quality of public policy formulation on labour matters and the system of labour administration in the

<sup>48</sup> The guidelines were revoked in May 2001, and replaced by an interim order pending the negotiation of a mutually acceptable replacement.

<sup>49</sup> Bitonio, loc cit.

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country. Since the renewed interest in the TIPC process from the mid-1990s, it has made both a qualitative and quantitative contribution to the promotion of industrial peace. Of particular significance is that the tripartite mechanism has served as a useful medium for unions to convey a common view, and indirectly to foster a shared view on specific social policy and labour market issues. No less significant is that the mechanism has played a role in confidence building, first among the trade unions and second, between them and the other partners.

On the other hand, the TIPC is not yet doing enough in terms of follow-up on the implementation of conclusions of the tripartite conferences. To a large extent, this inadequacy is due to the fact that, for a long time, the Council did not have a secretariat. However, in 1996, the Government formally named DOLE's Bureau of Labour Relations as the secretariat of the TIPC and some other industrial councils. The Bureau is responsible for developing the Council's agenda, collating information and preparing position papers for its consideration.<sup>50</sup> This may help. At the same time, the role of the secretariat must extend beyond merely servicing councils; it ought to facilitate the linkages between the various levels in the social dialogue process, as well as monitoring and implementation of tripartite accords and declarations at all levels.

The critical issue emerging on representation is the need for the two social partners to broaden the scope of their representation so as to provide a voice to the various segments of the labour force in the TIPC. Nowhere is this a greater challenge than in the labour movement. Broad as labour representation appears to be, it is seen as not broad enough. It arises in part from the endemic fragmentation of unions and the inevitable competition among them. The exclusion of unregistered labour unions, such as the KMU and a host of non-union groups, such as the mutual aid associations, is an inhibiting factor in terms of the effectiveness of the TIPC member unions. Another aspect is the lack of representation of the large number of non-organized workers and those in the informal economy in tripartite institutions such as the TIPC. This issue, in its various dimensions, is to a large extent down to the political divisions within the labour movement and the resultant multiplicity and fragmentation, which have made genuine representation extremely difficult. Nevertheless, the lack of representational status on the labour side in tripartite bodies, not only weakens its voice on important labour market issues, but denies representation to a large constituency of workers. The challenge for labour, therefore, is not only to overcome this divisive tendency, but to broaden its organizational appeal to all segments of the labour force in order to become a formidable partner in social dialogue.

### ***Cooperation through labour-management councils***

The Industrial Peace Act of 1953 introduced the forerunner of today's labour management councils. At that time, they were called Labour-Management Coordinating Committees, and their goal was to advise the Secretary of Labour on matters pertaining to the avoidance of industrial conflict. However, the collapse of the Marcos regime and the restoration of democracy in 1986 unleashed a wave of strikes unprecedented in the history of the Philippines. The strikes were the natural response to the pent-up anger that had accumulated over years of authoritarian rule and control over labour. According to the records, there were as many as 581 strikes in that year, the highest ever experienced in the country.<sup>51</sup> These strikes occurred in all the areas of economic activity critical to the country's economic development.

The institutional framework for resolving disputes was overwhelmed because it was not accustomed to dealing with worker protests on such a scale. Among the measures taken to address the

<sup>50</sup> Bear in mind that responsibility for some of the industrial councils is shared with other government departments, such as the DTI and the Department of Tourism.

<sup>51</sup> See the figures for 1937-1998 in Yearbook of Labour Statistics. Bureau of Labour and Employment Statistics. Manila, DOLE, 1998, Table 19.1, p. 287-8.

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challenge was the establishment in the Department of Labour of the National Conciliation and Mediation Board (NCMB) in 1987 to promote a voluntary approach to the settlement of labour disputes.<sup>52</sup> In addition, in so far as dealing with labour relations crises in individual industrial sectors was concerned, assistance was sought from the Department of Trade and Industry (DTI), which supervises the industrial sectors. Collaboration between the DOLE and DTI was seen as particularly necessary because several businesses were not organized; they had no established medium of consultation, and were unwilling to submit their disputes to the existing institutional framework.

In 1989, an amendment to the Labour Code re-introduced Labour-Management Councils (LMCs) by mandating enterprises to set up voluntary mechanisms to address workplace labour issues in a manner that promote labour-management cooperation for enterprise performance for their mutual benefit. The role of government in this process has been that of facilitator, through the services of the NCMB. The LMCs were to work towards industrial peace at enterprise level through dialogue to prevent labour disputes. The emphasis on an informal approach to settling disputes was useful where formal machinery did not exist or might not achieve positive results. Other programmes included a scheme called Project Malasakit, which was designed to persuade business owners to take an interest in the welfare of the workers, both at work and at home; and Project Community Relations that seeks to encourage companies to interact and relate with the community where their respective plants or factories are located. During that period, the DTI created what is now known as the Centre for Industrial Competitiveness (CIC). The DTI's approach included efforts to mobilize technical expertise from government and the universities in order to develop proactive approaches, which emphasized the promotion of a communication mechanism referred to as "partnership for quality and productivity" at plant level.

There are three categories of LMCs operating in the country today. The largest category comprises LMCs promoted by the NCMB. All such LMCs operate within the union environment. According to government records, there were 645 LMCs in this category in 2001. The second category of LMCs was set up by the regional offices of the Department of Labour. These bodies are not necessarily part of the first category, nor do they perform functions similar to the former. For the most part, the LMCs in this category are engaged in labour education at regional level. According to official records, there were 255 such LMCs in 2001. The third group consisted of LMCs promoted by the Philippine Association of Labour Management Councils (PALMCO), a private body formed to advance the competitiveness of Philippine industries. They are also in part assisted by the CIC. There were about 155 of such institutions in 2001. Most of them, 60 per cent, operate in non-unionized enterprises. It is instructive that while the goal of the remaining 40 per cent in union-based enterprises may not explicitly be to frustrate union activity, their emphasis is on the capacity of the business to be competitive.

In performing its role as facilitator of the LMCs, the NCMB assists companies to establish such forums and provides orientation training to managers and workers, as well as skills training on the techniques and processes of good labour-management relations. As shown in Table 4.1, 504 LMCs were established over a five-year period. Orientation training was provided to over 10,000 enterprises employing nearly 26,000 workers. An average of 2,094 employers and workers benefited from the organization's skills training during the period.

<sup>52</sup> For more on the work of the NCMB, see Chapter 5 below.

**Table 4.1: Labour-management cooperation programmes under the NCMB**

	<b>1996-2000</b>	<b>Annual average</b>
<b>LMCs facilitated</b>	504	101
<b>Orientation seminars Beneficiaries</b>	10,392	2,078
<b>Skills training Beneficiaries</b>	25,897	5,179
	2,228	446
	14,470	2,094

Source: National Conciliation and Mediation Board, Department of Labour and Employment, Manila

In non-union enterprises, the LMCs are responsible for diverse issues, but focussing mainly on productivity and quality, safety and health, working conditions, working environment, welfare, such as sports and recreation, and benefits. In such situations, LMCs have helped to build the trust and cooperation necessary to address the impact of globalization. At the same time, there are genuine concerns in some cases that the councils have served more as tools of management, and may have helped to undermine the union or frustrate the organizing effort. One view is that some LMCs are intended to supplant the union. Even where a union exists alongside the LMC, some union leaders have described the former as “yellow unions”, that is, tools of management. In other words, trade unions see LMCs in non-unionized enterprises as a deterrent to organization. Although this view is not supported by specific cases, it is true that where anti-union strategy becomes a deliberate enterprise policy, the inevitable result is the nurturing of adversarial industrial relations practices.

Nevertheless, the concept of labour management councils is now firmly rooted in the employment relations in the Philippines.<sup>53</sup> In many cases, the councils have helped to stabilize industrial relations and collective bargaining by building trust and cooperation, and have in such cases helped to work towards how best to address the challenge of liberalization and competitive pressures. In recent years, a major concern has been to address the effect of globalization on corporate performance through improved quality, profit-sharing, and total quality systems at enterprise level. It should be noted that, in nearly all cases where unions exist, LMCs are not involved in the determination of conditions, particularly the wage issue, which is regarded as a management prerogative, and as such is usually not part of their agenda. At the same time, the presence of the LMC is likely to induce the employer to adopt the minimum wage orders.

In summary, where they are used effectively, LMCs have helped to build trust, cooperation and are useful for information sharing. They have been useful in serving as an enterprise level grievance machinery. The result is a de-emphasis on the adversarial approach to industrial relations. In companies with functioning labour-management councils, collective bargaining is generally less adversarial as a result of trust and interest in the performance of the enterprise. The process of negotiation is easier and shorter, and less prone to disputes. The workers' unions no doubt recognize the constructive role of the LMCs in serving as a forum for consultation and communication on issues important to the enterprise, and for serving as proactive mechanism for promoting business and workers' interests. In this regard, LMCs have played an important role in translating national and sectoral level conclusions, recommendations and agreements into enterprise level commitments.

<sup>53</sup> There are two overlapping or complementary interest groups that promote labour-management councils in the country. The Philippine Association of Labour Management Councils, PHILAMCO, which comprises of LMCs in unionized enterprises and at regional level, and the Philippine Association of Labour Management Council, PALMCO, which promotes labour management councils in non-unionized and, sometimes, unionized enterprises.

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## Chapter 5

### The minimum wage and improved productivity

Wage-setting is an important element of the labour market process in the Philippines. Wages in the organized sector have, for a long time, been fixed through collective bargaining, generally at enterprise level. However, as stated earlier, this machinery is used by only a small segment of the wage-earning population. In contrast, the minimum wage covers a larger proportion of the labour force. Throughout the 1950s and up to the collapse of the Marcos regime, the Government took direct responsibility for setting the minimum wage and, inevitably, the process was a political one. In 1989, however, the tripartite National Wages and Productivity Commission (NWPC) and tripartite regional wage boards were established under the Wage Rationalization Act, 1989 (Republic Act No. 6727). This law introduced fundamental liberalization of the minimum wage-setting determination process, by allowing a process of tripartite consultation and negotiation through the regional wage boards.

The legislation seeks “to promote productivity-improvement and profit-sharing measures to ensure a decent standard of living for the workers and their families; to guarantee the rights of labour to its just share in the fruits of production; to enhance employment generation in the countryside through industry dispersal; and to allow business and industry reasonable returns on investment, expansion and growth”.<sup>54</sup> In doing so, the law acknowledged the obligation of the State to “promote collective bargaining as the primary mode of setting wages and other terms and conditions of employment”. By establishing the institutional machinery for fixing the minimum wage, the law implicitly sought to remove the process from the political arena. Under the law, 16 regional tripartite wage boards had quasi-legislative power to fix the minimum wage applicable in their respective region, province and sector.

#### **Setting the minimum wage**

The strong focus on the minimum wage is understandable because of the enormous population of agricultural and non-agricultural wage-earners who are not covered by the collective bargaining process. According to available information, at least 1.5 million workers are directly covered by minimum wage orders, while about 4 million workers are indirectly affected. This is mainly because, under the Commission’s guidelines, where the application of the wage order leads to distortions of the wage structure in an establishment, the employers and the union (or the workers where no union exists) are required to negotiate to correct the distortions.<sup>55</sup> The law provides that the minimum wage is to be adjusted in a fair and equitable manner, having due regard to regional disparities in the cost of living and other socio-economic factors and national development plans. In effect, determination of the minimum wage is devolved to the regions through their nation-wide network of 16 wage boards.

The umbrella organization for the regional wage boards is the NWPC, which has responsibility for providing policy guidelines and support. Its main functions are:<sup>56</sup>

<sup>54</sup> Section 2 of Republic Act No. 6727.

<sup>55</sup> National Wages and Productivity Commission Guidelines No. 001-95. Rule VII. Department of Labour and Employment, Manila, 1995.

<sup>56</sup> Section 3, Articles 120 and 121 of Republic Act No. 6727.

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- to act as a consultative and advisory body to the President and Congress on wages, incomes and productivity issues;
  - to formulate policies and guidelines on wages, incomes and productivity improvement at all levels;
  - to prescribe rules and guidelines for determining the minimum wage and productivity measures at regional, provincial and industry levels;
  - to review regional wage levels, plans and programmes of regional wage boards for consistency with national development plans. In this capacity, the Commission serves as an appellate body for appeals by any aggrieved party against the decision of the regional wage boards;
  - to exercise technical and administrative supervision over the regional boards, and from time to time call a national tripartite conference for consideration of measures to promote wage rationalization and productivity in the country.

The NWPC is a tripartite agency with the following 7 members:

- Chairperson, the Secretary of Labour and Employment
- Vice-Chairperson, the Director, National Economic Development Authority, NEDA
- 2 Employers' representatives
- 2 Workers' representatives
- Executive Director of the Commission, who heads the Secretariat
- Secretary of the Department of Trade and Industry, as observer.

In like manner, the law assigns each of the 16 regional wage boards the powers and functions to develop plans, programmes and projects relative to wages, incomes and productivity in the region, to fix minimum wage rates applicable in the region, provinces or industries consistent with NPWC guidelines. In performing these functions, the wage boards are to undertake studies, research and surveys, compile data on wages, incomes, productivity and other related information and distribute. The boards are to share information for the purpose of attaining consistency of policy as required by the Labour Code. They are also to receive, process and act on applications for exemption from prescribed wage rates.<sup>57</sup>

Each regional wage board has the following membership:

Chairperson, the Regional Director of the Department of Labour  
 2 Vice-Chairpersons respectively the regional director of NEDA and DTI  
 2 Employers' representatives  
 2 Workers' representatives  
 Board Secretary who is not a member.

The President of the Republic appoints members of the Commission and of the wage boards on the recommendation of the Secretary of Labour. Under its statutes, the Commission meets once or twice a month, while each board meets up to 4 times a month, although in practice it meets once a month. The NWPC operated with 78 staff in 2001, 60 per cent of whom were women. In the management grades, four of the six directors, including the Director-General of the agency, were women. Similarly, each of the wage boards operated with about seven staff, in most cases over half of them women.

<sup>57</sup> Article 122.

On the basis of an analysis of relevant economic and social data available to it, each wage board makes a wage order, which should normally reflect a tripartite consensus. The wage order covers only the minimum wage, since the scheme is designed to provide a safety net, leaving other conditions to collective bargaining or the provisions of the Labour Code. Table 5.1 shows minimum wage trends over a seven-year period. The minimum wage rose by P135 or 93 per cent between 1995 and 2001, although the consumer price index rose by just about 48 per cent during the same period. Productivity increases were insignificant, while unemployment increased.

**Table 5.1: Wages, prices, labour productivity and unemployment National Capital Region**

**1995 – 2001 (1994=100)**

<b>Year</b>	<b>Wage Increase</b>	<b>Minimum rate (Peso)</b>	<b>CPI Index</b>	<b>Labour Productivity (%)</b>	<b>Unemployment rate (%)</b>
1995	P0	145	108.2	3.25	9.5
1996	P16	161	117.3	(3.36)	8.6
	P4	165			
1997	P15	180	125.1	2.12	8.7
	P5	185			
1998	P13	198	137.9	(2.08)	10.1
1999	P25.50	223.50	146	0.23	9.8
2000	P26.50	250	152.3*		11.2
2001	P15	265	159.9*		11.2
	P15	280			

\*Provisional

Source: Bureau of Labour Statistics, Department of Labour and Employment, Manila and Employers' Confederation of the Philippines.

### ***The minimum wage and its politics***

The background to the determination of the minimum wage increase for 2001, while not particularly unique, illustrates the political context in which this process takes place in the Philippines. The positions of the parties over the amount of the increase were already on the table in each of the various tripartite wage boards. In the case of the wage board for the National Capital Region in Manila, traditionally the wage leader, the negotiations were complicated by the resolve of a section of the labour movement, led by the KMU, to announce the workers' demand for an increase of P125 per month for the Metropolitan Manila at a public rally. As might be expected, this pre-emptive public announcement created procedural problems and cast doubt on the usefulness of the tripartite machinery. The attendant publicity no doubt added to the difficulty of conducting any realistic or objective debate. Worse still, central labour confederations, such as the TUCP, which are committed to the tripartite mechanism, faced a dilemma: should they condemn the KMU tactic or go along with what had been publicly announced? While they appeared to oppose the KMU method, they were clearly unwilling to publicly disown the latter's demand, as that would have pitted them against the workers and project them as employers' stooges.

Another segment of the labour force, generally represented by civil society groups, had questioned their exclusion from the tripartite debate on the minimum wage. While several of the large trade union organizations, including the KMU, would insist that they speak for them, several such groups were unhappy that their views were not sought in the determination of the minimum wage. They asked, perhaps somewhat cynically, why no one had asked the unemployed and under-employed workers whether they might not prefer a minimum wage even less than the official rate.



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This disagreement within the labour movement only added to the employers' consternation at this break with tradition, using the public forum to debate the size of the minimum wage, thus undermining the tripartite processes of the wage board. They questioned the relevance of the consensual approach and argued that the establishment of tripartite wage boards had never succeeded in removing political influence in setting the minimum wage. Vincente Leogardo, Director General of ECOP, for example, argued that "...in spite of these prescriptions, the dynamics of wage fixing by the wage boards were invariably influenced by populist and political pressures that came into play every time the issue of wage increases was raised".<sup>58</sup> The debate over the 2001 minimum wage determination epitomized the politicization of the issue.

The employers cite the unrealistic increases in the minimum wage, which are based on subjective arguments. Taking the National Capital Region, for example, it is argued that in 2000, the minimum wage rose from P223 to P250 per month for Metro Manila, or an increase of 12 per cent, while the inflation rate was about 4.3 per cent for the same year. They argue that not only is the frequency of increases in the minimum wage harmful to the economy, but the size of the increase could send a frightening message to prospective investors that wages will keep rising. This concern is also reinforced by the view that the minimum wage awards make no reference to productivity. The employers' criticism has also been influenced by the lack of clear definition and clarity of the role of the minimum wage. This concern appears to have arisen from the traditional concept of a minimum wage as a basic wage and a safety net, which is designed to protect the most vulnerable workers. They argue that rather than do this, the minimum wage has tended to establish a guaranteed living wage, which does not give workers an incentive to produce more.

The concept of minimum wage or safety net to protect the lowest paid workers, which the NWPC adopted in 1994, may not have been used in its traditional sense. In principle, any increase above the basic wage or the safety net should be based on negotiations and productivity arguments. These views, objective as they are, ignore the reality that the collective bargaining machinery covers only a small segment of the wage-earning population. This in effect, makes the minimum wage applicable not only to the lowest wage-earner, but to the larger majority of wage earners, many of whom are organized but, for one reason or another, are unable to use the bargaining machinery.

Nevertheless, it can be argued that ECOP's concern, as the evidence in Table 6.1 suggests, has been borne out by the difficult industrial situation facing the business sector. A survey conducted by the Confederation in 2001 seemed to support the concern about the size of the workers' demand. In the survey, 95 per cent of the 55 responding companies claimed that they could not afford an across-the-board increase of P125. In fact, 64 per cent of the respondents indicated that they did not favour any increase at all. While the remainder favoured increases of between P4 and P50, they maintained that such increases could not be accommodated within the year due to internal and external pressures on business.<sup>59</sup>

The employers' position on this issue has the tacit support of the relevant government agencies, such as NEDA and NWPC, that 'excessive' increases in the minimum wage were not in the long-term interest of labour and the country as a whole. In fact, NEDA's position has always been that key criteria, such as the needs of the worker, capacity to pay, competitive income and the requirements of the economy are absolutely relevant in the determination of the minimum wage. This emphasizes the critical role of the institutional mechanism in wage determination. However, the country lacks the relevant economic data, particularly at industry and regional level and, in the final analysis, wage awards by most wage boards have been based primarily on the movement in consumer prices.<sup>60</sup> Partly

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<sup>58</sup> Vincente Leogardo, "The dynamics and politics of wage fixing: Towards a rational approach" Policy Bulletin (of the Employers' Confederation of the Philippines). Vol. 1 No. 1, October 2000, p.2.

<sup>59</sup> Unpublished survey results of 500 ECOP members in July 2001, with an 11 per cent response rate from various industries.

<sup>60</sup> Based on discussions with senior officials of the NEDA in Manila on 6 May 2002.

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in response to the various issues concerning the role of the minimum wage and its determination in the country, President Arroyo ordered the NWPC in May 2001 to review the system and to consider the relevance of introducing a living wage. This itself appeared only to complicate the debate and accentuated the divergent sectoral views on the role of the minimum wage in the economy. The result of the inquiry brought about another dilemma and did little to abate the criticisms. The evidence from the inquiry suggest that a family of six living in Metro Manila, for example, would require a 'living wage' of P503 per month, in contrast to the prevailing minimum wage of P250 per month.

In the final analysis, it should be realised that the political context in which the minimum wage has regularly been determined is in large measure the outcome of the historic role of the trade union movement in the fight against colonialism and dictatorship.<sup>61</sup> In the very recent demonstration of the involvement of the unions in this struggle, it is readily admitted that the trade union movement, in alliance with civil society and other groups, were instrumental in forcing President Estrada out of office in 2001. It is inevitable that the periodic involvement of the unions in the larger issue of democracy and nation building will divide the labour movement, and draw the unions more directly into the political process from time to time. The effect of this process in wage determination is part and parcel of this broader role of the trade unions. In this particular case, some sections of the labour movement, possibly having failed to register as trade unions, or failing to get certification for collective bargaining, or indeed not believing in the effectiveness of the structured tripartite arrangement, relied instead for their power and influence from the 'street dialogue' to which, incidentally, the Government is not particularly averse.

### ***Productivity issues***

As regards the productivity element in the wage-determination mechanism, the guidelines given by the Commission require wage boards to take several micro and macro economic indicators into account. Additionally, the Commission has also paid attention to training and advocacy of the importance of productivity in wage setting, while the wage boards conduct company-level training on productivity improvement.<sup>62</sup> As part of its advocacy and training role, the Commission has instituted schemes that seek to promote and encourage the various interests in small and medium-sized enterprises to accept productivity improvement. This includes the owners of the businesses themselves, as well as managers and workers. Since the programme was introduced in 1998, the Commission has trained about 15,000 participants through its 54 trainers nation-wide.

At regional level, as noted above, wage boards are expected to take into account several macro and micro data, as well as social indicators. Thus, the guidelines require them to give due consideration to national and regional economic indicators, such as gross domestic product, the level of investment, the consumer price index, trade indices, employment, unemployment and under-employment, strikes and union activities. This information is supplied by various government agencies, including the Departments of Labour and Trade and Industry, as well as the National Economic Development Authority. However, employers argue that productivity has not played the role it should play in the consideration of the minimum wage. They point to evidence that while the minimum wage has increased by 350 per cent in about 10 years, productivity has hardly increased at all. Naturally, employers favour the development of a productivity-based wage policy. The major problem is that,

<sup>61</sup> For more on this subject, see Benedicto E.R. Bitonio, "Social Dialogue and Tripartism in the Philippines". Paper presented at the Asia-Pacific Regional Seminar on Tripartism. Bangkok, March 2001.

<sup>62</sup> The productivity movement in the Philippines is highly structured with, at the apex, the Philippine Council for Productivity (PCP), a tripartite-plus body chaired by NEDA. It serves as an umbrella organization for all productivity initiatives in the country and formulates national action plans for productivity improvement. There is also the Philippine Quality Productivity Movement, a private sector driven initiative to promote productivity at industry and enterprise level.

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faced with the absence of relevant and reliable data, the wage boards have usually confined their work to the movement in prices.

The critical challenge, nevertheless, is to translate national-level commitment on productivity improvement to enterprise-level initiatives. This calls for the collation of clearly reliable statistics on the criteria for wage increase. The role of the relevant secretariat here cannot be over-emphasized. It also calls for a social partnership, especially at regional and industry levels, characterized by mutual trust, readiness to share information and to consult with workers' representatives. In this case, the focus of labour relations would then be on how to enhance output, performance and related pay, rather than how to reduce costs.

## **Conclusion**

The institutionalized approach to wages and productivity, as a key aspect of the labour market, is a significant development in social dialogue in the Philippines. That the social partners and the Government are regularly involved in policy initiatives, regulation and implementation, and share information on critical issues in the labour market is an important contribution to social stability and industrial peace.

There are, nevertheless, divided views within the labour movement on the effectiveness of tripartite consultation in the wage determination process. Not only do some militant elements in the labour movement regard the wage boards as slow and unproductive, increasing politicization threatens orderly and peaceful tripartite negotiation and consultation on this important socio-economic issue.<sup>63</sup> Political haggling over the minimum wage issue tends to overshadow reason and objective facts and figures, undermines the tripartite process and scorns attempts by any of the parties to follow the normal process.

This may have contributed to the lack of any real effort to make an effective linkage between wage awards and productivity. On the other hand, it can plausibly be argued that the minimum wage policy, what it seeks to do and the target population it affects, makes it inevitable that only scant attention is given to productivity. That trade union leaders continue to press for a higher minimum wage in which they make no reference to productivity is a pointer to the dilemma faced by the partners in addressing this economic issue.

In so far as the NWPC and the wage boards are concerned, much of their effort has been directed at advocacy of productivity, leaving actual productivity initiatives to individual establishments and workers in both the organized and non-organized sectors.<sup>64</sup> At this level, it makes sense to ensure that anything above the minimum wage floor ought to be a subject for negotiation and productivity-related. In other words, the key issues to be grappled with, at national level, include the impact of the minimum wage on employment, productivity and investment, both domestic and foreign. It also includes labour cost competitiveness especially in the Asian regional context. At enterprise level, there are issues of productivity as a determining factor in investment and sustainable employment, as well as investment in technology, skills and research and development.

<sup>63</sup> For example, the hostility of the KMU to the process partially explains why it has refused to recognize the work of the wage boards.

<sup>64</sup> There is the Philippines Council for Productivity, a private agency that has responsibility for coordinating productivity efforts in private and public sectors.

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## Chapter 6

### Dispute prevention and settlement

#### *Conciliation and mediation in the organized sector*

Responsibility for encouraging the prevention and orderly resolution of collective disputes in the organized sector belongs to the National Conciliation and Mediation Board (NCMB), an arm of DOLE. The NCMB was created under Executive Order No. 126 of 1987 (Reorganizing the Ministry of Labour and Employment and for other purposes), essentially to implement the constitutional mandate which requires the State to “promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes of settling disputes, including conciliation...”<sup>65</sup> This approach to dispute resolution was a dramatic change from the previous era of compulsory arbitration under restrictive regimes.<sup>66</sup> The NCMB operates largely as voluntary machinery for the prevention and resolution of labour disputes, and as such its services are for the most part used on request by the two sides of industry. The agency handles two types of case: interest disputes arising from deadlock in negotiations, and disputes on unfair labour practices brought before it by either of the parties.

In its role as dispute prevention machinery, the NCMB is proactive in responding to strike or lockout notices. Through counselling and preventive mediation, it helps the two sides to reach a peaceful resolution of grievances. It also assists the two sides in promoting cooperation and non-adversarial relations, voluntary arbitration and other voluntary modes of dispute settlement. The agency handles questions of interpretation and/or implementation of company rules or collective agreements. Complementary to this is the important role of the NCMB, described in Chapter 4, in facilitating labour-management cooperation programmes, such as the promotion of LMCs as a forum for consultation and cooperation, the goal being to promote non-adversarial labour relations in the workplace. These councils have been involved in orientation and skills training on the use of labour-management councils for promoting employee welfare and enterprise development.

As an arm of the Department of Labour, the NCMB does not have a tripartite structure. At the same time, the NCMB is advised by a tripartite body, the Tripartite Voluntary Arbitration Advisory Council, TVAAC, established under Executive Order 251 of 25 July 1987 (Amending Certain Sections of Executive Order No. 126 Dated January 30, 1987). The Council advises the NCMB on issues pertaining to the promotion of voluntary arbitration as a preferred mode of dispute settlement. This council is composed of the Executive Director of the NCMB who serves as chairperson, one other member from government, and two members each from employers' and workers' organizations. These members are appointed by the President, on the recommendation of the Secretary of Labour. The TVAAC is responsible for the formulation of policies, programmes and standards, as well as operational and procedural guidelines for handling grievances and voluntary arbitration in the country. The Council does its work by making resolutions, which the NCMB implements.

<sup>65</sup> Paragraph 3, Section 3 of Article XIII of the 1986 Philippines Constitution.

<sup>66</sup> For a historical review of the dispute settlement in the Philippines, see Alfonso C. Atienza, *Voluntary Arbitration and Collective Bargaining in the Philippines*. Manila, National Academy of Voluntary Arbitration and American Center for International Labour Solidarity, January 2000.

In the event of failure of mediation or conciliation, the NCMB tries to persuade the parties to go to voluntary arbitration. Where this is agreed, the union may not undertake the notified strike action, nor can the employer resort to a lockout. At this point, the case is sent to a voluntary arbitrator jointly agreed by the two sides. The award of the arbitrator is binding on both sides, although either party may appeal to the Court of Appeal. At either of these stages, the NCMB does not cease to perform its mediation and conciliation role, and this effort has on occasion helped to end difficult disputes. The emphasis of this process, nevertheless, is the voluntary nature of the service, for while the law provides the machinery for dispute prevention and resolution, the NCMB cannot compel a party to a dispute to appear before it. The thrust of the machinery, at all stages and levels, is to strengthen the negotiation process by providing the parties with impartial assistance to resolve their differences between them.

Tables 6.1 and 6.2 illustrate the performance of the country's dispute settlement system. It can be seen in Table 6.1 that, except in isolated cases, the incidence of strikes and lockouts, as well as the number of workers involved and work-days lost, has in each case been falling since the later part of the 1990s. The decline in all strike measures was especially marked in 2001. Furthermore, as shown in Table 6.2, over 70 per cent of strike/lockout notices were settled during 1999 and 2000, with only a small fraction actually resulting in strikes or lockouts. The official machinery settled nearly 60 per cent of actual strikes and lockouts during 1999-2001.

**Table 6.1: Strikes and lockouts, 1995 – 2001**

Year	Strike/Lockout Notices	Actual Strike/Lockout	Workers Involved	Work-days lost
1995	904	94	54,412	584,000
1996	833	89	32,322	519,000
1997	932	93	51,531	673,000
1998	811	92	34,478	557,000
1999	918	59	16,000	229,000
2000	807	65	21,000	319,000
2001	620	43	7,919	206,621

Source: Bureau of Labour and Employment Statistics, Yearbook of Labour Statistics, Current Labour Statistics, 2001 and Key Labour Statistics, DOLE, Manila, April 2002

**Table 6.2: Methods by which strike/lockout cases were settled (1999-2001)**

Method	1999	2000	2001
Strike/lockout notices settled by mediation/conciliation	707	586	471
Secretary of Labour	31	30	30
Compulsory arbitration	11	31	15
Preventive mediation	33	36	16
Other modes	16	4	41
Settlement rate	77.0%	72.5%	69.0%
Actual Strike/lockout cases settled by mediation/conciliation	35	37	28
Secretary of Labour	12	15	3
Compulsory arbitration	7	6	7
Other modes	0	2	6
Settlement rate	59.3%	56.9%	58.3%

Source: National Conciliation and Mediation board, Department of Labour and Employment, Philippines.

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## ***Conciliation and arbitration of labour disputes***

The National Labour Relations Commission, NLRC, was set up under Article 213 of the Labour Code, 1974 (Presidential Decree No. 442) as a quasi-judicial body for the purpose of dispensing labour justice to employers and workers speedily and fairly through mediation, conciliation and compulsory arbitration under a two-tiered system. By these means, the NLRC seeks to promote labour-management harmony and maintain the industrial peace necessary for investment, employment and economic growth. In pursuing this objective, the Commission assists the parties in finding mutually acceptable solutions to labour problems, with emphasis on mediation and conciliation. Only when this fails will the Commission arbitrate a dispute.

According to the Labour Code, the NLRC has original jurisdiction on all individual labour disputes in such areas as:

- termination of employment, unpaid or late payment of wages, violation of labour standards, petitions for illegal strike, unfair labour practice, such as harassment or intimidation of union leaders, or vice versa;
- with regard to labour disputes in the area of Philippines overseas labour, both the recruitment agencies in the Philippines and the foreign employer are several and jointly liable under the law;
- employment conditions of domestic workers working in the Philippines.

Additionally, the NLRC has jurisdiction in cases referred to it by the Secretary of Labour. This basically concerns collective disputes of 'national interest' which the NCMB might not be able to settle and which have been referred to the Secretary for Labour, or on which the Secretary exercises her powers to arbitrate before, after or during a strike.

The NLRC has a tripartite structure.<sup>67</sup> Each of the Commission's five divisions comprise a presiding chairperson, normally a government nominee and two commissioners nominated respectively by the employers and workers. All appointments to the Commission, including the labour arbitrators, are made by the President of the Republic in consultation with the Secretary for Labour. The chairperson and the 14 commissioners have the rank of a Court of Appeals Judge, while the 161 labour arbitrators hold the rank of a Regional Trial Court judge. Three of the five divisions, including the large Metropolitan Manila division, are located in Luzon Province, a fourth in the Central Province and the fifth in the southern part of the country. Three of the 15 commissioners and 37 of the 161 labour arbitrators are women. While this statistic does not appear to reflect the significant role women play in the economy and in public administration in the country, reflects the fact that, until recently, few women entered the legal profession.<sup>68</sup>

According to the provisions of the law, labour arbitrators exercise exclusive original jurisdiction over all disputes. Where settlement is not achieved at the level of the labour arbitrator, either of the parties may appeal the dispute to one of the five divisions of the Commission, which exercise appellate jurisdiction. Labour arbitrators, operating also as mediators, may try to settle through mediation, and only when this fails will they invoke the power of compulsory arbitration. Further appeal beyond the Commission can be made to the Court of Appeal and to the Supreme Court, although in such cases, the issue would essentially be on a point of law. In appeal cases, the presence of the parties is not required.

<sup>67</sup> Tripartite membership of the commission was restored under Republic Act No. 6715.

<sup>68</sup> It was pointed out that the gender imbalance in the legal profession is being energetically addressed.

The number of cases filed by workers and employers has increased, primarily due to the adverse effects of globalization and the economic crisis.<sup>69</sup> In situations where there is no established labour-management forum for resolving grievances – in most cases due to the lack of trade union presence – workers and employers have tended to resort to the legal machinery for justice. Although such recourse to the legal framework may foster stability in overall industrial relations, its use may undermine collective bargaining, with the unwanted side-effect of nurturing a legalistic approach to industrial relations.

The Commission's overall performance is illustrated in Table 6.3 below. Based on this performance, it would appear that the main thrust of the Commission's work has been to promote mediation and conciliation. About 51 per cent of cases before the Commission are settled through this process by labour arbitrators. Of the 40 per cent of cases meant for compulsory arbitration, about 10 per cent are successfully resolved through mediation/conciliation by the labour arbitrators and the commissioners. Some five per cent of arbitrated cases are appealed to the Court of Appeal. In other words, the processes of the NLRC, i.e. mediation and conciliation, and compulsory arbitration yield a success rate of over 96 per cent annually.

**Table 6.3: Overall record of performance of the NLRC**

A. Average annual cases handled	50,000
B. Cases that are not followed	4,000 (8% of A)
C. Cases settled through conciliation, mediation	<b>26,000</b> (52% of A)
D. Cases settled through compulsory arbitration	<b>18,000</b> (36% of A)
E. Arbitration cases mediated by commissioners	<b>2,000</b> (4% of A)
F. Arbitrated cases appealed to the Appeal Court	1,000 (10% of D/E)

According to the Commission's records, 85 per cent of cases involve termination of appointment, while about 10 per cent involve migrant workers. Some 70 per cent of termination cases are settled in favour of the worker, ostensibly because strict application of the law stresses just cause. Where an employer fails to prove just cause, the Commission normally orders reinstatement. Generally, analysis of the records of the Commission shows that more than 50 per cent of all awards are in favour of workers.<sup>70</sup>

One problem in the dispensation of labour justice is the failure to settle disputes expeditiously. The NLRC process has faced this problem for most of its existence. The law expects the Commission to settle a dispute through conciliation or arbitration within a period of six months. In the past, however, it was not uncommon for disputes to extend beyond this time limit, in some cases up to two to three years in each case. By 1998, the Commission had more than 40,000 outstanding cases for settlement by its 100 labour arbitrators throughout the country.<sup>71</sup> Although the unusually long period for settling a dispute was not entirely the Commission's fault, it remains true that delayed resolution of

<sup>69</sup> About 4,000 cases are dropped or abandoned by the disputing parties.

<sup>70</sup> The foregoing figures are based on unpublished records kindly made available by the Commission. See also the Commission's Annual Reports for 1998 and 1999.

<sup>71</sup> Annual Report 1998, National Labour Relations Commission, Manila, p.10.

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disputes has serious implications for the dispensation of fair and equitable justice, while it may have adverse cost implications for employers. In 1998, the Commission launched its “Go for Zero Backlog Programme” aimed at reducing the backlog of cases. By the end of the first year, the Commission and the regional arbitration branches had disposed off 99 per cent and 93 per cent respectively of the backlog filed by 1997.<sup>72</sup>

In conclusion, the voluntary arbitration system is designed to enhance the collective bargaining and bipartite machinery by emphasizing joint resolution of differences, whether they pertain to disputes of interest or of rights. In so doing, the process seeks to promote negotiation between the union and management, and emphasizes that in the event of failed negotiations, third party intervention is intended to facilitate further negotiation, compromise and consensus. This approach is also true of the NLRC. The mediation and arbitration system is designed to promote consensus building among labour and management. Strengthening this process by finding creative and innovative means for resolving their differences, the dispute resolution system is a facilitating mechanism for alternative disputes resolution, to foster greater labour-management cooperation in place of adversarial relations.

The NLRC thus plays an important role in the dispensation of justice in the labour field. Indeed, on the basis of the structure of the labour market, the role of the Commission is a significant one, since it is responsible for dispensing justice for more than two thirds of the labour force. In performing this role, the Commission not only enhances the democratic process, it promotes peaceful settlement of disputes. This has no doubt contributed to the effective functioning of the labour market, and promoting the industrial peace necessary for investment. This process has direct implications for employment growth and overall national development. At the same time, it is conceivable that the success of the machinery may, in some respects, be at the expense of stronger bipartite employer-employee relations and might foster adversarial relations in the workplace. There is however, no clear evidence of this.

<sup>72</sup> Ibid.



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## Chapter 7

### Social protection and safety in the workplace

The social protection regime in the Philippines involves a number of inter-related institutions, three of which are discussed in the present chapter.<sup>73</sup> These are the social security system, employees' compensation and safety and health.

#### *The Social Security Commission*

Social protection has existed for a long time in the Philippines. In 1957, the social security system was established under Republic Act No. 1161, as amended, as a tripartite social protection system. The aim was to develop, promote and perfect a sound and viable tax-exempt social security system suited to the needs of workers and the people of the Philippines. It was also to promote social justice and provide meaningful protection to members and their beneficiaries against contingencies such as disability, maternity, sickness, old age, death that might result in loss of income or financial burden.<sup>74</sup> The law established a Social Security Commission (SSC) as a tripartite body drawn from government, employers' and workers' organizations. The SSC is responsible for formulation of policies, regulations and rules necessary to implement the law.

It is noteworthy that while the initial law did not provide for tripartite representation, membership of the Commission has been progressively enlarged, with the inclusion of the social partners. Thus, the 1997 amendment requires equal representation of three members each from government, employers' and workers' organizations. The same amendment stipulates that, in the case of both the employers' and workers' organizations, one representative should be a woman. The Secretary of Labour and Employment chairs the Commission.<sup>75</sup>

The initial legislation limited membership of the social security scheme to salaried workers in the private sector, which, as noted above, represents only a small proportion of the wage employment sector. A separate Government Service Insurance System covers the public sector. The extensive informal economy, the large pool of unpaid spouses, as well as Filipinos in overseas employment were excluded when the system was introduced. As a result of the limited coverage and impact of the system, a Presidential Decree No. 1636 was promulgated in 1979, extending coverage to all self-employed persons with an annual income of P1,800 or over. Subsequently, in 1992, farmers and fishermen were brought into the scheme, while other groups, household workers and overseas Filipino workers were covered. Again in 1997, a new law, the Act Further Strengthening the Social Security System (Republic Act No. 8282) extended coverage on voluntary basis to spouses working full-time in

<sup>73</sup> The social protection regime is broader than the above-mentioned programmes, which are directly within the framework of this paper. There is, for example, the National Health Insurance Programme, established in 1995, which seeks to provide health insurance coverage for all Filipinos within 15 years. According to estimates, the coverage of this programme was 33.9 million as at December 2001. (This information is based on private correspondence with the author).

<sup>74</sup> When the social security system under which the Social Security Commission was first introduced by the Republic Act No. 1161 of 1954, it was not a tripartite body. Also, the earlier law had narrower coverage both in terms of who qualified and types of benefits available.

<sup>75</sup> Under the provisions of the Republic Act No. 8282, the President of the Philippines designates the Chairman from among its members.

managing the household and family affairs. In other words, there has been a determined effort on the part of the Government to extend the social security system to all segments of society.

As Table 6.1 indicates, membership of the social security system has risen considerably, from 231,083 employers' enrolled in 1980 to 363,147 a decade later. Similarly the number of workers covered, including the self-employed, jumped from about 8.1 million to 12.5 million during the same period. In 2001, the scheme covered over 633,000 employers and about 23.5 million workers, including non-wage earners.

**Table 7.1: Membership of the social security system, 1980-2001**

	Total Membership	
	Employers	Workers*
1980	231,083	8,057,526
1981	239,556	8,534,253
1982	249,540	9,028,570
1983	258,844	9,525,807
1984	269,547	9,864,304
1985	272,496	10,075,846
1986	275,800	10,294,538
1987	281,491	10,616,495
1988	296,996	11,070,794
1989	327,354	11,775,459
1990	363,147	12,453,333
1991	385,418	13,240,578
1992	408,926	13,779,461
1993	424,783	14,542,510
1994	454,623	15,472,433
1995	488,713	15,891,661
1996	486,698	17,803,046
1997	536,521	19,079,595
1998	550,000	21,710,000
1999	570,000	22,910,000
2000	580,000	23,270,000
2001	633,306	23,522,872

- Includes self-employed persons

**Source:** Bureau of Labour and Employment Statistics, *1998 yearbook of Labour Statistics* and *2001 Current Labour Statistics*, Department of Labour and Employment, Manila.

The social security scheme provides two categories of benefits. The first includes primary benefits as specified in the law and regulations. These are disability, sickness, maternity, retirement and death, including funeral expenses. The second includes what are referred to as 'privileges', mainly loans of various kinds – salary, educational, housing, stock investment, calamity and emergency.

According to the latest available information, total contributions to the scheme increased steadily over time, reaching P30.9 billion in 2001, despite the economic difficulties experienced in the years immediately preceding.<sup>76</sup> Benefits, however, have also risen steadily, in total P37.8 billion in 2001. Apart from a dip in the number of benefits claimed in 1998, the total number of claims also rose, reaching nearly 1.8 million in 2001. It is instructive to note that the number of contributors did not decline, which reflects the expansion of the coverage to include voluntary and self-employed members.

<sup>76</sup> All figures for 2001 are based on private correspondence with the social security system.

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## ***Employees' compensation***

The Employees' Compensation Commission, ECC, was established under Presidential Decree No.626 of 1975. The Commission has a mandate to provide meaningful and appropriate compensation to workers in the event of work-related injury, sickness, disability or death, promptly to receive meaningful and adequate income benefits, medical or related services, as well as rehabilitation services. The Commission is responsible for developing and implementing policy on workers' compensation in both the private and public sectors. The compensation programme covers every employer with at least one employee, regardless of the capitalization or the type and nature of the business, as well as every employee who is not over 60 years of age. The Commission thus caters for about 1.5 million workers in the public sector and some 15 million workers in the private sector.

The programme derives its funding from employers' contributions to the State Insurance Fund, while the ECC is responsible for disbursement for work-related disabilities as defined by the law. Under the law, a public sector employer contributes P30 for every worker in the public sector, comprising the civil service and government agencies. Private sector employers contribute P10 monthly per worker, all of which is invested in investment instruments by the State Insurance Fund. The fund is managed by two agencies: the Social Security System is responsible for disbursement of claims in the private sector, while the Government Services Insurance System is responsible for disbursement of claims to public sector workers.

The Commission has a tripartite structure, consisting of seven members, five of whom are ex-officio. Two members, representing respectively the employers and workers are appointed for a term of six years by the President of the Republic on the advice of the Secretary of Labour. Thus, the composition of the Commission is as follows:

- Secretary for Labour, as Chairperson
- President of the Social Security System
- General Manager of the Government Service Insurance System
- Head of the Philippines Health Insurance Commission
- Executive Director of the EEC
- One employer member
- One worker member

While it is true that membership is skewed in favour of the 'Government', it should be noted that the Commission's decisions are taken by consensus. The Commission meets twice a month. Two of the seven members of the Commission are women, currently from the government side. However, of the 82 workers employed in the secretariat of the Commission, which includes 15 direct staff of the commissioners, 60 or 73 per cent are women.

Where a claimant is not satisfied with the decision on his or her claim as decided by either the Social Security System or the Government Service Insurance System, the claimant can appeal to the EEC for review and settlement. In this role, the Commission performs quasi-judicial functions. The Commission's decision can also, of course, be appealed to the Court of Appeal. A dissatisfied claimant may also appeal the decision of the Court of Appeal to the Supreme Court as the final arbiter.

According to Commission officials, the fund stood at around P19 billion in 2001. The distribution of benefits is instructive, for while the public sector coverage is only 1.5 million, claims by workers in that sector, numbering about 17,000 annually, is about the same as claims by the 15 million workers in the private sector. The explanation for this is that under the law, both the military and

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police, who are on duty for 24 hours, are covered by the fund. As a result of the risks associated with this group, claims tend to be disproportionately higher.<sup>77</sup>

In recent years, the Commission has taken on additional functions in response to the needs of its clients. In 1995, for example, it introduced the Industrial Clinic Programme by which certain hospitals are accredited to give medical examinations to workers in businesses too small to operate in-house medical facilities. This service is needed to deal with occupational diseases or exposure to hazards. In the year 2000, 33 industrial clinics in operation nation-wide served a total of 62,805 workers in small and medium-sized enterprises. This service is fully paid for by the Commission, and has since its commencement attracted over 300,000 in all economic sectors.<sup>78</sup>

The Commission also performs direct services to the people with disabilities in two important areas. The first is the introduction of the Rehabilitation for Re-employment Scheme. Working with public and private vocational institutions, the scheme provides training for re-employment of occupationally injured workers. In more recent times, this service has been extended to helping this group of workers to find jobs. The second is the Rehabilitation for Entrepreneurship Scheme, by which the Commission cooperates with the Technology and Livelihood Resource Centre to provide training and start-up capital for occupationally injured workers who might opt to go into business. This new scheme commenced in 2001, and had attracted 40 participants as at the time of this study.

### ***Safety and health in the workplace***

The promotion of safety and health in the workplace, and the general well-being of workers, contribute enormously to improving productivity, promoting industrial peace and enhancing national socio-economic development. Public policy in this domain in the Philippines seeks to advance this approach, and the Occupational Safety and Health Centre (OSHC) operates within this context. Established in November 1987 by the President Aquino administration, the OSHC operates as the specialized agency of the ECC, as a nationally recognized authority on research, training, technical services and information on occupational safety and health in the workplace.<sup>79</sup> The board of the ECC serves as the governing body for the Centre. The Centre operates with 97 staff, of which 64 are women. Apart from the Executive Director, women head four of the Centre's five divisions.

The Centre is responsible for the promotion of primary prevention of occupational accidents, illness and accidents in the workplace through research, training and information. In this role, it examines work-related illnesses and accidents, and updates the list of occupational diseases. It is also responsible for providing technical advice on claims submitted to the ECC. In its research role, the Centre conducts studies on various aspects of work-related issues of health and safety. Among such studies are those in the footwear, metal and mining industries.

Child labour has in recent years been an important focus of attention by the OSHC, particularly bearing in mind that there are about 3.3 million children working in the country, out of which about 2.7 million are engaged in hazardous work. In this respect, the Centre has concentrated on promoting awareness on the problem of child labour by stressing the hazardous nature of work, working

<sup>77</sup> In the light of this experience, the Government Services Insurance System had regularly engaged in inter-Fund borrowing, which might induce the EEC to explore the possibility of an increase in the contribution per worker in the public sector.

<sup>78</sup> Information from the Employees Compensation Commission Annual Reports, 1998-2000, Manila. In the period following the Asian financial crisis on 1997, the ECC provided emergency loan facilities to alleviate the economic difficulties of workers displaced by the regional crisis. Between 1997 and 2000, a total of 59,803 workers were granted over P641 million in loan relief. However, partly because of its low return on investment and high default rate, the programme was cancelled.

<sup>79</sup> Although an arm of the ECC, the Occupational Safety and Health Centre is a semi-autonomous body, created by Executive Order No. 307 of 1987.

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conditions, harmful substances and the effect on children in sectors such as mining. In these areas, the Centre has conducted studies and publicity campaigns to communities on how to stop child labour and conduct safety audits. In the area of training, the Centre conducts various types of training in specific areas, including fire safety, safety in construction, AIDS in the workplace and so forth. The Centre publishes safety and health guidelines for various segments of society, including the famous "UZAPandOSH" series on 'school safety', 'violence against women' and 'a primer on HIV/AIDS and the Workplace'.

Though much of the Centre's work appears to have focussed on large and medium-sized enterprises in the organized sector, the OSHC has broadened its services to small businesses and the informal economy, taking account of the large number of businesses and workers in the sector. In this regard, the Centre provides services to small businesses and community groups on safety awareness, and conducts training for trainers who in turn are responsible for giving appreciation courses in their communities.

### **Conclusion**

By extending coverage progressively to various social groups, the social protection system in the Philippines has played an important role in helping to redress one of the adverse effects of globalization and other economic changes in the labour market. In this regard, it has responded to the realities of the labour force in the Philippines where the bulk of the population is not in formal employment. It has served as a critical cushion, especially during the periods of prolonged economic crisis facing the country. The remarkable success of the institutions for social protection should also be seen in terms of opportunities for the key stakeholders to set policies and see to their implementation. Additionally, by ensuring that the management and staffing of the various institutions reflected the gender realities of the labour market, policy-makers have ensured that coverage of the various schemes relates to both wage and non-wage earners in the labour force. Nevertheless, more effort is needed to improve delivery and compliance with the social security system, particularly as it applies to groups in small enterprises and the informal economy.

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## Chapter 8

### Vocational training and skills development

The challenge of providing adequate and skilled labour to enable Philippines' industries to compete in the liberalized global market is a national objective that inspired the establishment of institutions such as the Technical Education and Skills Development Authority (TESDA). Skills development, upgrading and improvement are seen as a key response to the rapidly changing demand for quality middle-level labour.

#### *Training for an effective labour market*

In dealing with this challenge, TESDA was established by the Republic Act No. 7796 in 1994. The Agency's goals and objectives are:

- to promote and strengthen the quality of technical education and skills development programmes to attain international competitiveness,
- to focus technical education and skills development on meeting the changing demands for quality middle-level labour,
- to encourage critical and creative thinking by disseminating the scientific and technical knowledge base of middle-level labour development programmes,
- to recognize and encourage the complementary roles of public and private institutions in technical education and skills development and training systems, and
- to inculcate desirable values through the development of moral character, with emphasis on work ethics, self-discipline, self-reliance and nationalism.<sup>80</sup>

In the context of policy formulation, the Agency consults with the stakeholders at local and provincial level on supply and demand issues, on the basis of which national skills development priorities for appropriate skills investment decisions are set. As regards its certification function, the technical and vocational institutions in the country are organized into 14 priority sectors,<sup>81</sup> which define standards of performance needed to effectively respond to local and global labour market conditions. In this regard, the authority defines core skills, the standards needed to achieve them, and stipulates and develops the instruments for assessing and applying them.

Operationally, the Agency supervises the following vocational and technical institutions:

- 60 technical and vocational training schools;
- 16 regional training centres, and
- 45 provincial training centres.

Additionally, the Agency has links with industry associations and enterprise training systems, especially apprenticeship schemes in the various priority sectors. Through these links, it consults on the skills and training requirements of enterprises. These consultations lead to a review of the Agency's

<sup>80</sup> Section 3 of the Technical Education and Skills Development Act (No. 7796) of 1994.

<sup>81</sup> These sectors include agriculture, tourism, maritime, metals, clothing and textiles, furniture, toys and household goods, ceramics, construction and transport.

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programmes and ensure that they are responsive to the needs of the country. Formal training is delivered in all these institutions. In the community outreach programme, training is delivered in less formal arrangements.

The Agency's governing board is primarily responsible for formulating continuing, coordinated and fully integrated technical education and skills development policies, plans and programmes as defined in its mission and objectives. The tripartite-plus board is composed of 19 men and women, as follows:

- Government: 8 members, including the Secretaries of Labour and Employment, Education, Trade, Science and Technology, Agriculture, Interior and Director General of TESDA (at any time at least half are women),
- Employers: 5 members (1 woman),
- Workers: 6 members (1 woman),
- Technical and vocational institutions: 2 members (one woman).

The law requires the Agency to make “equal participation of representatives of industry groups, trade associations, employers, workers and government” the rule of operation, and is very explicit in requiring the board to “promulgate, after due consultation with industry groups, trade associations, employers and workers, policies, plans, programmes and guidelines as may be necessary”.<sup>82</sup> The board meets quarterly, and decisions are normally taken by consensus. In terms of gender representation, apart from the requirements of the law that representation of employers, workers and technical institutions shall include one women in each case, the institutional members, including the Government have more than one women representative on the board at any point in time.

The short-term plan of the Agency and indeed of the Department of Labour is to extend the Agency's services to the vast informal economy. It thus plans to institutionalise vocational education in the informal economy, through partnership with informal operators and their organizations, organizing the operators into vocational training providers, and helping to strengthen such institutions.

Beginning in 1996, TESDA began formulating comprehensive development plans for middle-level labour for optimum development, and allocation of skilled labour for employment, entrepreneurship and technological development.<sup>83</sup> The plan adopted a policy-oriented labour planning approach, which was sector-focussed, area-based and labour-management driven. In this manner, the Agency's work sought to set skills priorities in each segment of the country and provide the signals for identifying investment areas.

In its development plan for 2000-2004, TESDA has committed itself to a three-pronged middle-level skills development programme.<sup>84</sup> The first is to promote global competitiveness to address the skills requirements of export-oriented activities, catalytic industries, highly skilled and technology-based occupations, and the development of occupations/skills to international standards. The second is the rural component, which is aimed at the skills required in economic activities in rural areas, especially technology-based agriculture and fisheries development. The third seeks to promote social integration, bringing people into the mainstream of development through popular participation. This assures that all stakeholders contribute to the development of initiatives and decisions, and resources that affect them.

<sup>82</sup> Section 8 of Republic Act No.7796

<sup>83</sup> National Technical Education and Skills Development Plan 2000-2004. Manila, TESDA, 2000.

<sup>84</sup> Ibid, pp. 4-5.

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In conclusion, TESDA is a key initiative designed to provide direction to and to integrate all technical education and skills development regimes in the country. The work of the Agency has the potential to create flexibility in skills development to cope with the complexity of rapidly changing labour market needs. As a forum for the tripartite partners and other stakeholders, TESDA provides opportunities for wider consultation and joint initiatives in addressing this critical area of economic development. Its services are delivered at both national and regional level, thereby ensuring full coverage of the skills supply and demand throughout the economy. This will contribute to effective implementation of the skills development policy. In short, through this Agency, the country expects to produce the right skills needed for growth and competitiveness.



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## Chapter 9

### **Concluding observations: Social dialogue and effective labour market policies**

The legal and institutional machinery for social dialogue in the Philippines is strong and extensive, and has contributed enormously to the operation of the labour market. Tripartism, or the overall consultative processes, are enshrined in the Labour Code. This tradition is rooted in the belief that consensus building through participation by the relevant stakeholders in decision-making results in credible decisions, promotes industrial peace and good governance. The tripartite (and tripartite-plus) system in the country operates in a network of interwoven labour market institutions which, in combination, have an important effect on the performance of the economy. Operating at national, regional and industrial level, the TIPC has, for example, served as a forum for discussion, information sharing and consensus on specific and general social and economic issues that impact on the labour market and the economy as a whole. In the democratic era, there is clear evidence that these consensus-building mechanisms have made important contributions to national economic development. There is no doubt that the Philippines approach to tripartism and social dialogue is an example of good practice.

Curiously, however, some of the institutions and processes, particularly those involving labour market institutions, union recognition, collective bargaining and dispute prevention and dispute settlement, while seeking to promote consensus at the various levels, may inadvertently nurture an adversarial stance, even if this outcome is not very apparent. The thrust of processes such as the registration of trade unions and certification for collective bargaining is heavily legalistic and inherently conflictual, inevitably creating a culture of winners and losers in the labour relations system. Clearly, a review of this system, towards win-win outcomes could de-emphasize the destructive competition within the labour movement and in labour relations, and instead build on cooperation consistent with the spirit of the Labour Code and the framework for social dialogue in the labour market.

### ***Social dialogue and the decent work agenda***

The analysis in this paper reveals that the Philippines experience in social dialogue has demonstrated the critical role of the mechanisms for regulating the labour market, and points to the enormous role and potential of consensus building in implementing the decent work agenda which the country has recently launched. There is no greater social challenge for the Government than that of job creation, and ensuring that such jobs offer security and good living standards. As shown in the foregoing analysis, the issue of employment creation has and continues to be a major subject for social dialogue among the various segments of society, seeking to find practical and effective ways of creating adequate and sustainable employment for the unemployed and under-employed. The social agreements and accords that have been signed and the positive results so far achieved testify to the value of consensus building on this major element of national economy.

Similarly, the protection of the rights of those who work, whether or not they are represented by trade unions, or those who have no work, is an important social concern for a society such as the Philippines. Not only is there the need for broader representation of workers by trade unions, but those union members who for one reason or another are unable to exercise their right to collective bargaining also need appropriate legal protection. Workers in micro and small enterprises, who are not protected by labour market institutions, or who have somehow been inadequately protected by the provisions of the Labour Code, as well as those who have been marginalized or excluded by the forces of globalization and economic reform policies, also need to have their rights protected and safeguarded.

The protection of the rights of the child and the eradication of child labour is a subject of strategic importance to both employers and trade unions, as it is to the State. This issue has featured

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prominently in the deliberations and operational agenda of tripartite institutions such as the TIPC and OSHC. Similarly, the problem of the socially excluded is an important social policy issue for the tripartite partners. Previously excluded groups, such as the self-employed and homemakers have all been integrated into the tripartite-led social security system. In the same vein, the challenge of an effective response in the area of health and safety, especially in an era of globalization and industrial restructuring, is being actively pursued.

These challenges call for a quick conclusion, both in the existing tripartite institutions and within the respective social partners and the Government, of the debates on the question of why and how to extend representation and social dialogue to groups that are under-represented or not represented at all by the labour market institutions or in the consultative mechanisms. The need for a national policy which outlines the ideas on the broadening of representation to these groups appears to have emerged with the May Day Tripartite Declaration in 2002.<sup>85</sup> What then remains is effective implementation of the provisions of this accord. In this regard, all the parties, and particularly the trade union movement, have an important role to play. The trade union movement must strive to overcome the forces that induce multiplicity and fragmentation and inhibit the ability to speak with one voice.

The traditional areas of bipartite relations, particularly collective bargaining at enterprise level, continue to acquire importance despite the pressure of globalization and the challenge of limited coverage. Its coverage obviously needs to be extended. Although it is true that collective bargaining has been complemented by the employer-employee mechanism of LMCs, such forums should not aim to substitute for, or frustrate, the exercise of the fundamental right of workers to freedom of association and collective bargaining. In general, however, social dialogue, involving all relevant stakeholders in the labour force has helped to strengthen these processes, as well as to address the challenges.

Nevertheless, the effectiveness of the tripartite system in addressing the issues of the labour market and the decent work agenda in the Philippines would seem to depend crucially on three fundamental factors. These are, effective transmission of conclusions reached at national level to lower levels of decision-making and implementation, broadening the coverage of social dialogue to the larger segment in the labour force, and enhancing the relevance of tripartism. In the remainder of this chapter, attention is drawn to these key challenges.

### ***Links between decisions at national and lower levels***

The value of national level consultation and negotiation, such as the TIPC, is that discussions at this level have a national perspective, reflecting broad knowledge and debate on macro issues affecting the economy and, for example, how such issues impact on the labour market. For decisions at this level to have full effect, they must be effectively transmitted and implemented at the relevant lower levels. While there is no explicit mechanism for achieving this linkage between national and lower levels in the Philippines, there is evidence to suggest that, to some extent at least, the work of the various tripartite bodies dealing with thematic issues, such as wages and productivity, dispute settlement and health and safety, has tended to reflect conclusions reached periodically at national-level in the TIPC. Similarly, the medium of the LMCs and collective bargaining at the enterprise level is intended to put such conclusions into practice.

The secretariats of the various bodies are seemingly responsible for ensuring this linkage between national and lower levels. There is no doubt that some effort is being made to ensure that decisions at national level get transmitted to lower levels, but there do not appear to be systematic and organized procedures for satisfying this vital requirement. In the case of the TIPC, the Bureau of Labour Relations, which serves as the Council's secretariat, appears to see its role mainly as servicing

<sup>85</sup> See Appendix 2.

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the meetings of the Council, more or less ignoring the equally critical function of implementation of its conclusions and recommendations, and then the need for follow-up to ensure compliance.

In other words, the secretariats of tripartite institutions such as the TIPC need to play a more active role. In addition to their present functions, they should be involved in the implementation and monitoring of conclusions, as well as providing support services to the members, particularly those representing the social partners. In addition, it should be understood that these secretariats have a crucial role to play in facilitating links between the various levels at which social dialogue takes place. In other words, decisions taken at national level should be effectively transmitted to the lower levels in the consultative process, while performance at the latter level should be reported to higher level constituents.

The enforcement machinery of the DOLE would appear to be equally useful in this regard. However, this department appears to be inadequately performing its crucial enforcement and compliance function. A review of its role in this domain of labour administration, with a view to strengthening it would seem to be in order. However, in so far as the implementation of the conclusions of tripartite bodies is concerned, it should be borne in mind that effective implementation and monitoring is not up to the Government alone. Employers' and workers' organizations also have a duty to ensure that their regional or sectoral representatives, as well as union officials at enterprise level understand the provisions of national level agreements and accords and implement them at the various levels. This may require appropriate capacity building to enhance skills, especially at the lower levels of social dialogue.

In the same vein, the processes of the NCMB, the NLRC and the certification process in the Department of Labour should have an overall positive effect on labour relations at enterprise level, resulting in labour-management cooperation and a corresponding reduction in labour conflict and adversarial relations. This implies that the medium of the LMC and collective bargaining should be intensified to promote bipartite consultation and cooperation at that level.

### ***Broadening the scope of tripartite representation***

One of the biggest challenges facing the tripartite community in the Philippines is to extend the scope of tripartism to the great bulk of the labour force which has not up to now been adequately represented, if at all. Making its voice heard is a key requirement of a decent work agenda. The challenge of the decent work agenda in the Philippines obviously suggests that appropriate mechanisms should be put in place for the tripartite partners, particularly the employers and workers' organizations, to broaden their reach through organizing and alliances with all segments of the labour force. This is a key requirement given, as demonstrated throughout this paper, that the unrepresented groups account for about three-quarter of the labour force.

The trade union movement has made commendable efforts to extend membership to some civil society organizations or groups, or in other cases form alliances with them. However, these efforts are as yet insignificant and probably too selective to have an appreciable impact on the vast community of the informal economy. Public policy has also moved towards recognizing the organizational rights of groups such as cooperative associations and people's organizations. The next issue for the tripartite partners is how to relate to these bodies in a way that their views are reasonably represented in tripartite institutions.

The choices for the social partners are basically three. Either to extend direct membership to civil society, form alliances with them, or extend participation in tripartite bodies to the authentic representatives of civil society. Where necessary or appropriate, they may have to form alliances with the relevant groups – as they already are doing, or cooperate with others involved in tripartite bodies to ensure that the agenda these bodies addresses issues of concern to the wider community in civil society. In either case, the essential requirement for the trade unions would be to develop services that respond

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to the former's needs. The employers' side, too, has considerable responsibility in respect of small employers who are not represented.

### ***Enhancing the relevance of the tripartite mechanism***

The value of seeking to broaden consensus by consulting with everyone is that it can carry along society at large. To that extent, it promotes good governance. However, the effective operation of labour market institutions appears to be facing increasing strains as a result of a number of internal and external factors. The first is the frequent lack of agreement among the various groups in the tripartite system. Disagreement between employers and labour on the nature of the challenges facing the economy, and the appropriate response, are areas where common understanding or perceptions of the issues at stake are necessary in order not to stall consensus. The second is the lack of consensus within the workers' group as a result of seemingly competing interests among the trade union organizations. This difficulty derives in part from the chronic problem of multiplicity and fragmentation of the labour movement, which makes genuine representation through a united position in tripartite bodies extremely difficult. It also has to do with the lack of capacity, especially in articulating a credible position on important economic issues. However, failure to reach consensus, either between employers and workers or within the trade union movement, unavoidably places the onus on the Government to make the final decision. This problem is more evident in respect of the minimum wage determination process where from time to time, the Government has had to make the final decision.

The third issue is the related tendency to politicize the debate in tripartite forums, such as the determination of the minimum wage by regional wage boards. While acknowledging the right of all workers to freedom of speech, the pre-emptive process of publicly interjecting subjective arguments into the debate on the minimum wage undermines the process as a joint consensus building mechanism. It has the effect of removing objectivity from the process, and may detract attention from relating the minimum wage to employment, productivity and competitiveness in the economy. Quite apart from its effect on domestic and foreign direct investment, it may undermine the credibility and value of tripartism in the eyes of the parties. In other words, there is a great need to ensure that the established institutional framework for consultation on important policy is not frustrated or undermined by extraneous tendencies.

The foregoing views were amongst the issues discussed at a national tripartite workshop held in Manila in May 2002, specifically organized to review the social dialogue institutions, machinery and processes in the Philippines.<sup>86</sup> The seminar agreed on a number of policy recommendations intended to strengthen and reinforce social dialogue in the country. These recommendations are reproduced in the appendix to this paper.

<sup>86</sup> See the Report of the ILO National Tripartite Workshop on Social Dialogue in the Philippines. Makati City. 7 May 2002.

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## **Appendix 1**

### **Recommendations of the National Tripartite Seminar on Strengthening Social Dialogue in the Philippines**

#### ***Coverage***

1. Implement social dialogue outcomes at local as well as national level.
2. Likewise, pay due attention at national level to outcomes of social dialogue at local level.
3. Expand the coverage of social dialogue and broaden the scope of tripartite representation to include SMEs, the informal economy, civil society groups and non-governmental organizations.
4. Establish social dialogue mechanisms for overseas Filipino workers, taking account of their unique labour-management environment.
5. Integrate public sector unions in the social dialogue process.
6. Broaden policy consultations to include all sectors/stakeholders in all agencies/departments concerned with economic and social policies.
7. Ensure that information generated through social dialogue is shared among all sectors/stakeholders.

#### ***Issues***

1. Include discussions on the informal economy, particularly on means to provide better access to credit, social protection and expand delivery of services to remote areas.
2. Include discussions on improving the wage-fixing machinery towards making it pro-active and responsive to the changes in the economy, and on the possibility of setting industry-wide wages.

#### ***Process***

1. Include discussions on achieving genuine representation in all tripartite and policy-making bodies, including the process of selection of sectoral representatives.

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2. Improve the system of selection of multi-sectoral representatives in tripartite institutions, taking account of changing circumstances and new alliances.
  3. Establish mechanisms to monitor and evaluate the impact of social accords and similar agreements based on tripartite and multi-sectoral consultations.

### ***Enhancement***

1. Promote capacity building through research, education and training to improve the intellectual reservoir needed by the social partners to make social dialogue more fruitful.
2. Foster the political will of the social partners, enhancing social dialogue from mere rhetoric to genuine and substantive discussions on social and economic policies that can be implemented.
3. Disseminate “best practice” of social dialogue.
4. Adopt bipartite and tripartite approaches to promote productivity and the competitiveness of the economy.
5. Strengthen the secretariats and increase the budgets of tripartite social dialogue institutions.

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## Appendix 2

### Tripartite Labor Day Declaration

#### May 1, 2002 Labor Day Celebration

**WE, THE REPRESENTATIVES** of Government, Workers and Employers on the occasion of the celebration of Labor Day in the Centennial Year of the Philippine Labor Movement:

**RECOGNIZING** that the sacrifices and initiatives of the pioneers of the Philippine Labor Movement serve as an inspiration in pursuing the goals of democracy and a better quality of life for the Filipino worker and society as a whole:

**RESPONDING** to the realities and challenges of globalization, improving standards of living, and promoting the mutual interests of workers and employers;

**ACCEPTING** our shared responsibility and accountability toward ensuring sustainable and equitable development of the country;

**COMING** together to underscore our commitment to core labour standards so that social progress and equity can go hand in hand with economic progress; and,

**AFFIRMING** that the promotion of the country's competitiveness in an environment of social justice and equity, shall be through the active partnership as well as the coordinated and creative responses of government, employers, and workers.

#### **DO HEREBY REAFFIRM OUR COMMITMENT TO:**

1. Respect and promote the ILO Declaration on Fundamental Principles and Rights at Work and comply with the labour standards embodied in the ILO Core Conventions by:
  - Upholding the basic workers' rights to freedom of association and collective bargaining, the elimination of all forms of forced labor, the abolition of child labour, and the elimination of discrimination in respect of employment and occupation;
  - Implementing the Philippines' Action Programme for Decent Work;
  - Encouraging and implementing industry agreements and enterprise-based codes of conduct and social dialogues pushing for compliance with ILO core conventions and Philippine labor standard laws.
  
2. Promote the growth of unionism by:
  - Simplifying requirements for the registration of unions and collective bargaining agreements and certification election;
  - Rationalizing the exercise of the assumption of jurisdiction powers of the Secretary of Labor and Employment;

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- Fast-tracking the disposition of all labour cases.
3. Ensure the protection of the right of workers to security of tenure by:
    - Rationalizing the privatisation of government entities;
    - Rationalizing governmental commitments to WTO, AFTA and APEC as well as international financial institutions to align these to job creation, preservation, protection and enhancement as specified in the Employment Summit of March 2001 and the National Socio-Economic Pact of November 2001.
  4. Recognize the contribution of the informal sector and all marginalized sectors in the economy and their inherent right to social protection by:
    - Providing better access to productive assets, legal resources, security of tenure, occupational health and safety and social protection;
    - Calling for policy adjustments to accredit informal sector organizations and cooperatives as collecting agents of SSS and PHIC.
  5. Uphold and implement the constitutional guarantee of a living wage within a fixed and realistic time frame, working towards an acceptable tripartite formula and recognizing the vital role of an established and truly responsive wage-fixing machinery.
  6. Improve the social, economic and financial environment beneficial to both workers and employers by:
    - Ensuring that lowered interest rates shall have a positive impact on consumers;
    - Providing access to credit, technology and market to micro, small and medium scale enterprises;
    - Reviewing the policy on power, water, fuel, communications and other public utility rates in order to reduce the cost of production and the workers' cost of living;
    - Establishing productivity and skills enhancing measures which guarantee mutual gains among all parties;
    - Providing consultative mechanisms prior to the implementation of economic measures, and installing social protection to employers and workers that are adversely affected by such measures.

**WE SHALL PURSUE THE FOREGOING COMMITMENTS BY:**

1. Installing a monitoring mechanism under the National Tripartite Industrial Peace Council, particularly looking into the time periods and the sectoral commitments;
2. Establishing a system of periodic dialogues toward harmonizing fiscal, social and economic policies; and,
3. Adopting a selection procedure for ensuring sectoral representation in all tripartite and other policy-making, monitoring, and implementing bodies.



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*SIGNED THIS 1ST OF MAY, 2002 IN MANILA, PHILIPPINES.*

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