

Social Justice Through Harmonious Workplace Relations**

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Dean Jonathan P. Sale,

Distinguished Members of the Faculty and Staff,

Graduates and your proud Families and Friends,

Ladies and Gentlemen,

Allow me to extend my warmest congratulations to UP School of Labor and Industrial Relations Batch 2012, and my deepest appreciation for having me in the commencement exercises of the country's premiere educational institution in the field of industrial relations and human resource development. As a law student and budding labor law practitioner and teacher in the 1990s, I would visit the UP-SOLAIR library and feast on the abundance of legal research materials for my law journal articles and National Labor Relation Commission (NLRC) or court pleadings. When I joined government in 2001, I reentered your storied hallways, this time as an invitee to various lectures and seminars under the auspices of Cleared, Inc. Truth to tell, I was more of a fan than a resource person back then, as I was introduced to the likes of Dean Froilan

* Graduation speech, UP-SOLAIR, 2012

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Bacungan, Dr. Rene E. Ofreneo, Dr. Jose C. Gatchalian, Dr. Maragtas S.V. Amante, Prof. Jorge V. Sibal, Dr. Virginia A. Teodosio, Dr. Virgel C. Binghay, and the rest of the UP-SOLAIR pantheon of luminaries.

Which brings me to my first point: A confession. As a lawyer and government official, I should never run out of words to say about my field of work. But lo and behold, I feel out of my element, as this is only the second time for me to be a guest speaker in a graduation ceremony. And I should tell you that the first time was about 15 years ago, when a friend of mine who owns a preschool asked me to address his graduating class composed of kindergarten toddlers. I recall that my message to the little ones then was, “be good to yourself, your parents, your teachers and classmates, and to everyone else”—not too far from any basic human relations strategy.

In preparation for today, I accessed the Internet, and discovered that a website called www.graduationwisdom.com actually sums it all up for me in its “20 Life Rules from 100 Inspirational Commencement Speeches,” as follows:

1. Find your passion.
2. Believe in yourself.
3. Do not let others define who you are.
4. Have big dreams.
5. Take action and get in the game.
6. Be bold and courageous.
7. Do not give up.
8. It's ok to fail.
9. You do not need to be perfect.
10. Use your imagination and your creativity.
11. Follow your heart and your intuition.
12. Do what you love.
13. Stay in the present moment.
14. Think you can do it.
15. Take risks.
16. Embrace change.
17. Work hard and keep walking the road.
18. Maintain your integrity.
19. Give back.
20. Keep learning.

So there you have it. I could end my piece right here and purportedly walk off into the glorious summer afternoon and satisfy myself with the thought that I have given you not one or two or three, but twenty inspirational messages in a span of a few minutes.

But bear with me, if you please. I know you may have already heard about the 20 inspirational life rules, and perhaps even know them by heart. And you may also know that these “rules of the road” are easy to apply when the journey is a straight line. But life, as we all know, is a little bit more complicated than that. For in the daily grind that is our workaday world, we encounter all types of situations with all types of people—people whose boldness and courage referred to in inspirational message no. 6, or whose desire for change referred to in inspirational message no. 16, can be the same motivating factors behind a disagreement or dispute or debate.

One of my favorite academics, Professor Richard Hyman, says that your field of industrial relations is essential because “it is multi-disciplinary, and no single discipline is adequate to capture the complexity of the world of work. Second, it involves a multi-level analysis, because the workplace is embedded in local, national, and international structures and processes. Third, it addresses a terrain that involves multiple stakeholders.”

As recently as twenty-five years ago, complexity in the world of work resembled complexity in Philippine industrial relations, with its myriad of disputes, labor organizations and unionization procedures and dynamics in any given situation. These days, complexity arises because our statutorily-enshrined industrial relations system has strayed too far away from realities of the world of work. Simply put, we have an acknowledged adherence to the primacy of collective bargaining in the letter of our law, despite the fact that less than 10% of wage and salary workers in private establishments are union members, and despite the fact that around 83% of the labor force, or those belonging to the agricultural and services sectors, are largely unorganized. Not to mention the fact that an overwhelming percentage of establishments (around 99%) are micro and small businesses that, more often than not, would be unorganized.

So how could social justice be achieved in workplace relations when assumptions in our statutory workplace relations model beg transcendence, or better yet, transformation?

Primordially, our Constitution is clear in terms of how to apply social justice when it says that the State must promote social justice “in all phases of national development.” The textbook explanation in the

landmark Supreme Court ruling that is *Calalang vs. Williams*, refers to social justice as

“Neither communism, nor despotism, nor atomism, nor anarchy, but the humanization of laws and the equalization of social and economic forces by the State so that justice in its rational and objectively secular conception may at least be approximated. Social justice means the promotion of the welfare of the people, the adoption by the Government of measures calculated to insure economic stability of all the competent elements of society, through the maintenance of a proper economic and social equilibrium in the interrelations of the members of the community, constitutionally, through the adoption of measures legally justifiable, or extra-constitutionally, through the exercise of powers underlying the existence of all governments on the time-honored principle of *salus populi est suprema lex.*”

In the context of agrarian and industrial unrest in the 1930s, “social justice” may be easily be misinterpreted as an ideological edict. But look closer at the opening line, which reads: “neither communism nor despotism nor atomism nor anarchy...”

Today, I would say that *Calalang vs. Williams* must be viewed as simply a fair shot at personal development and well-being for all with no particular bias in favor of an ideology—a sense of fairness in the distribution of resources and fairer access to basic services and economic resources. This means that every child and person growing up in Batanes down to Jolo should have a fair chance at being who and what he or she wants to be in life.

And this fair chance for all is in the context of a workplace drastically transformed by globalization. Enterprises have resorted to a range of measures to increase efficiency and competitiveness, mainly in the areas of innovation, skills and productivity. For some, a shorter product life has enhanced the need for multi-skilled and easily trainable employees. Indeed, skills have become important determinants not only of flexibility, productivity and quality, but also of employability, investment and the ability to rapidly adapt to market changes.

Also, technology has facilitated changes in organizational structures, thus creating flatter organizations. This has resulted in management effected less by command and supervision, and more through emphasis on cooperation, information-sharing and communication, and with a more participative approach to managing people.

Yet another development is the continuing growth of the service sector and knowledge-intensive industries. Workforces in these sectors require specialized skills, such as in medical transcriptions, and therefore need to be managed differently, hence the greater need than before for cooperative and participative forms of industrial relations.

In 2008, the International Labor Conference of the ILO issued a landmark statement of principles called the ILO Declaration on Social Justice for a Fair Globalization. Member States, including the Philippines, adhered to four important strategic objectives of the Decent Work Agenda, namely: (a) promoting employment by creating a sustainable institutional and economic environment; (b) developing and enhancing measures of social protection—social security and labor protection—which are sustainable and adapted to national circumstances; (c) promoting social dialogue and tripartism; and (d) respecting, promoting and realizing the fundamental principles and rights at work. In the Preface to the Declaration, Director-General Juan Somavia states that the document “provides leaders and decision-makers with a balanced approach that connects with people and productive solutions at home, while also offering a common platform for governance at the international level.”

At the DOLE, I know that Secretary Rosalinda Dimapilis-Baldoz has asked a committee to draft a new Labor Code through the lens of the Decent Work Agenda, as embodied in the 2008 ILO Declaration.

In the area of amendments to Book V of the Labor Code on Labor Relations, perhaps we may consider these following points to ponder:

- (1) How can the new Labor Code establish harmonious workplace relations for a vast majority of establishments in our country?
- (2) How can the new Labor Code equip workers and employers, as well as unions and employers’ organizations, with the tools to promote and establish harmonious workplace relations in our country?
- (3) What is the role of other stakeholders, such as local community leaders, in terms of promoting harmonious workplace relations?

To answer these questions, first and foremost, we must do our homework. We must change this policymaking habit of setting legal standards on paper that are out of touch with reality. Hence, it would do well to benchmark, rather than prescribe, such standards, by seeking best practices adhered to by stakeholders, and by establishing them as policy goals and objectives. And this is where you, dear graduates, as industrial relations and human resource development practitioners, will come in.

More than technocrats, lawyers, or politicians, you are in a best position to share these best practices so that policymakers may know.

Then we could review our basic philosophy in workplace relations. In my view, the foundation of current labor relations policy, which is industrial democracy, remains intact but must be placed in the context of specific delineations of democratic space on per establishment and per industry bases. This means that, based on an agreed set of guiding principles such as the four decent work pillars of promoting employment through sustainable enterprises, social protection, social dialogue and rights at work, stakeholders in establishments and industries should craft their own labor-management relations framework—their own promotion and application of workplace democracy, if you will.

In that ever-controversial area of security of tenure, perhaps it is high time we look at protective legislation in the context of a broader set of labor market interventions. This means that active and passive labor market policies, such as job mismatch and job placement services and unemployment assistance measures, should be institutionalized alongside the regulation of an employer's exercise of the right to hire and fire. It is important for employers, workers and government to negotiate the trade-offs between active and passive labor market policies (ALMPs and PLMPs) on the one hand, and employment protective legislation (EPL) on the other, through tripartite dialogue and collective bargaining. The ideal frame is a balanced situation, whereby flexibility components in ALMP and PLMP and security components in EPL are strong.

In dispute resolution, we only need to paraphrase a line from a non-industrial relations thinker named John Lennon: Let's give industrial peace a chance. Hence, it is all about conciliation, conciliation, conciliation. I would even suggest that the Department of Education (DepEd) and Commission on Higher Education (CHED) should look into the possibility of including conflict resolution and management and conciliation in the curricula of tertiary, secondary and, I dare say, even primary levels of learning. And I am not just talking about labor disputes, but all types of disagreements and relational flashpoints as well. Have you heard of the movie "The Interrupters"? It is a documentary about a violence prevention group operating as roaming street counselors in troubled Chicago neighborhoods. Whenever they hear of a dispute that could erupt into violence, the counselors step in to mediate, wherever the disputants may be. The theory is that if violence is an infectious disease, then you go after the source of the infection, which is misunderstanding.

On the preventive side, there are countless venues for social dialogue that will promote the development of mutual solutions to issues and concerns by workers and employers. The national, regional, and local tripartite and industrial peace councils, for instance, could be foremost examples of these venues.

With regard to disputes that require resolution or a decision by a third-party neutral adjudicator, there will still be a government tribunal or body vested with jurisdiction. But in the spirit of an established labor-management relations framework suited to particular establishments and industries, there should be an “opt-out” mechanism whereby workplaces can enroll their own dispute resolution mechanisms, for instance through an arbitrator designated by employees and management. Once this “opt-out” procedure has been enrolled or registered with the DOLE, the decision of the designated arbitrator shall be final and executory, with recourse only to the higher courts through a petition for certiorari.

A special word about unions, having been a union lawyer prior to joining government. Much has been said about declines in union density and influence over the years. But as long as we are a human race, the inherent freedom of association and right to collective bargaining are integral to Philippine industrial relations policy. Allow me to share a couple of points on how unions could move their agenda forward.

One is to highlight the dualistic nature of political and economic unionism on a national, macro scale. Unions, as we know, are already in the realm of politics and social movements, mainly through party-list representation in the House of Representatives. But perhaps unions should continually immerse themselves in the challenging waters of economic policy development and promotion of employment and national competitiveness.

Second is the development of framework agreements on a global or national scale that emphasize voluntary or self-regulating initiatives by enterprises in the areas of business ethics, codes of conduct, or observance of fundamental labor rights on a cross border basis. Such national or international framework agreements could promote corporate accountability that is directed at worker and employer representatives in a company.

Finally, allow me to put on my POEA hat and address you on a matter that is close to my personal advocacy, that is, providing decent work to domestic workers. Every year since 2007, a growing number of Filipino women leave their families and choose to be domestic workers in the Middle East, Hong Kong and Singapore. Last year, in 2011, we

broke the 100,000 barrier for newly-hired domestic workers for the first time. There is no question that national law and policy adheres to stronger protection for Filipina overseas domestic workers. But what about the nearly two million domestic workers in our country? Without domestic workers, heads of households cannot go out and work and make productive use of their time. It is that simple. Hence, if we are to be proponents of good workplace relations, it all starts with fair treatment of our domestic workers at home. And by fair, I do not just mean unilateral treatment as “family members” etc., but as employees entitled to humane treatment and decent work entitlements.

At the DOLE, we have joined the lobbying effort to push for the passage of the Batas Kasambahay and the ratification of ILO Convention 189 on Decent Work for Domestic Workers. *Ang tanong sa atin ng mga taga-ibang bansa ay simple lang: Sa Pilipinas ba, ano ang proteksyon na binibigay ninyo sa kanila?*

In the end, I suppose, it still boils down to at least a majority of the life rules I have enumerated. *Pasok na pasok din pala ang 20 life lessons na binanggit ko kanina.* Applying rule no. 1, for instance, one does need to have the passion to pursue harmonious workplace relations to apply what you have learned in UP-SOLAIR. Based on the no. 2 rule, one has to maintain belief in what you can achieve as a soldier in the army for industrial peace. And based on rule no. 3, you cannot let naysayers bring you down. And once again based on no. 16, you must embrace change for the better.

Stay inspired, and keep yourselves madly and deeply in love with the pursuit for harmony and cooperation in the workplace.

Once again, congratulations to you, dear graduates, and may you always be agents of industrial peace and harmonious workplace relations.

Thank you, and have a good day.