

How Relevant is the Philippine Labor Code in an Economic Regime Called Globalization?

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Introduction

One of the issues confronting labor administration in the Philippines today concerns the relevance of the Labor Code in an economic regime called “supply sidism”—the economic paradigm of “globalization.” The labor administration prescribed by the Labor Code is anchored on “demand sidism.” Demand sidism refers to a system in macroeconomics wherein demands are created in the market by increasing wages of the workers that, in theory, will assure economic growth and development.¹ This will be discussed further below.

Labor administration is a subsystem of the larger economic system. As such, it must be attuned to the prevailing economic system. Prior to the shift in economic regime, the Labor Code, as an economic instrument, served the objectives of demand sidism, which are: a) achieving economic growth by insuring that locally produced goods will have advantage over imported goods in the domestic market; and b) delivering “social justice” or “welfare state” for the benefits of the Filipino working class, which eventually will translate to higher demands in the domestic market. The important instruments of the demand sidism economic development strategy are the protective tariff and other regulatory laws that are used to insure that domestic

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products will be cheaper, and therefore have competitive advantage in the domestic market versus foreign-made good.

Among the important concepts introduced by supply sidism are “privatization” and “deregulation.” Privatization means that government should stop engaging in an unfair competition with the private sector by getting out of business, and should instead focus on its role of governance.² Deregulation means that government shall refrain from intervening in the economy, and shall leave the market to regulate and govern itself.³

The twin programs of privatization and deregulation were the main instruments used that caused the decline and eventual dismantling of the “social justice” or “welfare state” in Europe. Values that were originally heralded as necessary for economic growth, such as improving the economic life of the working class—the largest sector in the economy of developed countries—through minimum wage fixing to create demands in the domestic market, had been considered under supply sidism as a distortion in the markets and accordingly discouraged.⁴ It had been adjudged as causing artificially high wages that correspondingly result in expensive production cost. Trade unions, which were originally pictured as knights in shining armour for their role in protecting the working class and in creating domestic demand through collective bargaining, are now being blamed as the main source of market “distortion” and “rigidities” in production.⁵

The entry of the economic regime called supply sadism—the main strategy of globalization to achieve economic development—has also put into question the relevance today of the concept of social justice or welfare state, as promoted by the Labor Code. Social justice is the conceptual backbone of labor administration in the Philippines.

The issue of how relevant social justice is to the economic development strategy of the Philippines has taken an important dimension, with the provisions of the Labor Code itself being put on issue. The proposal to amend the Code so as to adjust its provisions in accordance with the new economic regime is expected to remove or dismantle many of the long cherished values that, under supply sidism, are adjudged as causing distortion or rigidities in the market.⁶

Recently, Filipino workers have been dependent on foreign employment, because there is no domestic employment available for them. The rising number of broken families and other social ills are some of the unexpected consequences of our dependency on overseas

employment program to resolve our nagging high unemployment rate.

This paper will attempt to address the issue concerning the need to adjust the Labor Code so as to make its provisions compatible with the pursuit of the new economic order called supply sidism, the economic paradigm of globalization. What the amendments to the Code will be, and how economic development could be achieved, are among the important issues raised in this paper.

A Short Historical Backdrop

The Labor Code of the Philippines was enacted on 21 December 1974 by President Ferdinand E. Marcos as part of the reforms introduced by his Martial Law regime. It was a consolidation of various existing labor and social legislations at that time. It was also based on the recommendations of the Comprehensive Employment Strategy Mission of the International Labour Organization, also known as Ranis Report.⁷ As then Secretary Blas F. Ople puts it:

The close interconnection between the two documents is not lost to the perceptive citizenry. The Ranis Report documented the principle that the elevation of real wages, income and living standards was a function of employment generation and economic expansion. On the other hand, the Labor Code, as the President (Ferdinand Marcos) pointed out, was designed to promote employment and development as well as social justice.⁸

The Labor Code is not merely a social legislation, but is an instrument for economic development of the country as well. Thus, Secretary Ople puts it:

The project of writing a Labor Code began in 1968, at the initiative of the Secretary of Labor. At that time the Department of Labor entered into a partnership with the Code Commission. But the real task of rewriting the labor laws to make them development-oriented should be reckoned as having started immediately after the proclamation of martial law. In the first Cabinet meeting

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after September 21, 1972, the President of the Philippines directed the Secretary of Labor to accelerate the work of preparing a Labor Code which would simplify the labor laws and *realign them with the demands of employment and development*.⁹

And also:

While the Labor Code is a charter of human rights and obligation, it must also be both responsive and responsible for development, for a nation must develop together or not at all.¹⁰

Demand Sidism and Social Justice

As pointed out above, labor administration in the Philippines is aimed at achieving economic development with social justice, which was expected to improve the standard of living for most Filipinos.

Instrument of social justice. Social justice, also referred to as civil justice, pertains to the concept of a society in which justice is achieved in every respect of society, rather than merely the administration of law.¹¹ Most individuals wish to live in a just society, but the different political ideologies have different conceptions of what a “just society” actually is.

Social justice is often employed by the political left to describe a society with a greater degree of economic egalitarianism, which may be achieved through progressive taxation, income redistribution, or property redistribution.¹² But having a greater degree of economic egalitarianism without economic growth is not enough to achieve social justice. Without economic growth, a nation can only redistribute poverty equally.

The right wing generally believes that a just society is best achieved through the operation of a free market, which they hold provides equal opportunity and promotes philanthropy and charity. Without government intervention, however, human greed will likely deny any redistribution of wealth. In the Philippines, eighty percent of the wealth is controlled by only about 10 percent, or even less, of the population. Worldwide, about 80 percent of the world’s economic wealth is consumed by only about 20 percent of the world’s richest economy.

Philippine concept of social justice. The term “social justice” remains vague and highly contentious.

The original concept of social justice in the Philippines was championed by then President Ramon Magsaysay in his famous saying: “He who has less in life should have more in law.” Essentially, President Ramon Magsaysay believed that a just society could be achieved by providing more rights and privileges in law to those who have less wealth in life.

But the more formal definition of social justice was delivered by Justice Laurel in a seminal case decided by the Philippine Supreme Court:

Social justice is neither communism, nor despotism, nor anarchy but the humanization of laws and the equalization of the 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 ensure economic stability of all component elements of society, through the maintenance of proper economic and social equilibrium in the inter relations of the members of the community, constitutionally, through adoption of measures legally justifiable or extra constitutionally, through the exercise of power underlying the existence of all governments on the time honoured principle of ‘*salus populi est suprema lex*.’¹³

In another case, the Supreme Court clarified that:

Social justice does not champion division of property equally, or equality of economic status; what it and the Constitution do guarantee are equality of opportunity, equality of political rights, equality before the law, equality between values given and received and equitable sharing of the social and material goods on the basis of efforts exerted in their production.¹⁴

Based on the above, the conceptual definition of social justice in the Philippines connotes equal opportunities in laws and the

economy, equality between values given and received, and the sharing of material goods on the basis of efforts exerted in their production.

The Labor Code, Demand Sidism and Social Justice

The Philippine Labor Code is both an instrument of social justice and of achieving economic development through demand sidism.

The demand sidism economic development strategy has two phases. The first phase involves increasing or enlarging the economic pie, while the second phase is concerned with how such economic growth can be equitably distributed—in other words, the social justice objective.¹⁵ The Labor Code was in harmony with these twin goals. The Code's objective of enlarging the economic pie by creating demands in the domestic market is the hallmark of the demand sidism economic strategy. The Code also addressed the second activity under the banner of social justice.

During the demand-sidism regime, the thrust was to improve the standard of living of workers so as to provide them purchasing ability. This was then perceived as necessary in order to generate demands in the domestic market, which our industries depended upon for their revenues. To insure that domestic-made products had a competitive advantage in the domestic market against foreign-made goods, tariff regulations were imposed, making foreign-made goods expensive and uncompetitive in the domestic market.

The other important aspect of the demand-sidism regime was that the Labor Code, the instrument that governs the labor administration system, aimed at creating demands in the domestic market. A system of labor administration was also necessary to stabilize employee-employer relations so that our import-substituting industries can move forward.

The labor administration system is a subsystem that must be attuned to the larger economic system. Under the demand-sidism regime, the labor administration system that was prescribed by the Labor Code complemented the objectives of the economic regime. But like any man-made structure, the labor administration we now have is not a perfect system, as in fact it had been flawed from the very beginning.

The Labor Code focused on protecting the smaller segment of the workforce in the formal sector of the economy. Nonetheless, we consoled ourselves with the thought that as “economic development deepens, most of our workers will eventually end up with the formal sector of our economy,” an assumption that now appears premature as this was reversed when supply sidism was introduced by globalization.¹⁶

From Demand Sidism to Supply Sidism

In the 1970s, the world economy experienced “stagflation.” Stagflation is a term used in economics to describe a situation wherein the inflation rate is high, economic growth rate slows down, and unemployment remains steadily high.¹⁷ “It causes a dilemma for economic policy, since action designed to lower inflation may exacerbate unemployment and vice versa.”¹⁸

In 1986, the Philippine economic paradigm shifted from demand sidism described above to supply sidism. Supply sidism is a school of macroeconomic thought that argues that economic growth can be most effectively created by lowering barriers for people to produce goods and services (supply), such as lowering income tax and capital gains tax rates, and by allowing greater flexibility by reducing regulations.¹⁹

A major component of the supply side paradigm is the opening of the markets of various countries worldwide by lowering or eliminating protective tariffs and other market protections—under the new economic paradigm, these are adjudged as market distortions—to provoke competition in the domestic market, thereby forcing domestic producers to get out from domestic market dependency, and sell their products to the larger international market.

Supply Sidism and the Philippine Trade Union Movement

The immediate impact of the change from demand sidism to supply sidism on the Philippine trade union movement was the decline in membership, partly because of the high unemployment rate that followed the shift in economic paradigm. Szal argues that “one possible culprit of unemployment is globalization (or supply sidism)

that included trade liberalization among others.”²⁰ As Director General Pascual Lamy of the World Trade Organization puts it: “Globalization (or supply sidism) is a multi-layered and complex phenomenon involving intensive political, social and economic interaction, nationally and internationally.”²¹

The Philippine trade unions’ membership declined in 1986, when the economic paradigm was changed from demand sidism to supply sidism or from the classic Keynesian to the neo-Keynesian model.²² Table 1 shows the decline of registered unions, from 371 in 2006 to 260 and 159 in the years 2007 and 2008 respectively. The membership of the newly registered unions also declined from 31,777 in 2006 to 24,079 and 14,806 in the years 2007 and 2008 respectively.

Table 1. Registered Unions and Membership in Newly Registered Unions (2006 - 2008)

Indicator	2006	2007	2008*
Registered Unions	371	260	159
Federation/Labor Center	1	-	2
Private Sector Unions	292	221	113
Public Sector Unions	78	39	44
Membership of Newly Registered Unions	31,777	24,079	14,806
Federation/Labor Center	3,222	-	5,727
Private Sector Unions	22,660	19,081	8,846
Public Sector Unions	9,117	4,998	5,960

*Up to September 2008

Source: Department of Labor and Employment, January 2009, Current Labor Statistics.

More importantly, the number of registered collective bargaining agreements and of workers covered also declined immediately after the shift from demand sidism to supply sidism. Table 2 shows the number of registered collective bargaining agreements and the number of workers covered. The number of registered collective bargaining agreements declined from 536 in 2006 to 318 and 154 for the years 2007 and 2008, respectively. The number of workers covered by the new collective bargaining agreements declined from 60,790 in 2006 to 44,374 and 37,333 in the years 2007 and 2008, respectively. The number of workers covered by existing collective

bargaining agreements also declined from 236,000 in 2006 to 218,000 and 226,000 in the year 2007 and 2008, respectively.

Table 2. Number of Existing Collective Bargaining Agreements, Workers Covered by a New Collective Bargaining Agreement and Workers Covered (2006-2008)

Indicator	2006	2007	2008*
Registered CBAs	536	318	154
Workers Covered by New CBAs	60,790	44,375	37,739
Expired CBAs	495	446	277
Existing CBAs	1,670	1,542	1,419
Workers Covered by Existing CBAs	236,000	218,000	226,000

*Up to September 2008

Source: Department of Labor and Employment, January 2009, Current Labor Statistics.

Current Situation

After the initial decline of trade unions' membership when supply sidism was introduced, later statistics show a slight increase in membership, partly because of the uncertainties of their employment status caused by the shift in economic paradigm. But what is more revealing is the rapid increase of workers' associations that are focused, not on collective bargaining, but on mutual aid and comports.

Table 3 shows the existing workers' organizations and collective bargaining agreements up to December 2012. Workers covered by new collective bargaining agreements (CBAs) declined from 87,442 in the year 2010 to 77,944 and 58,138 for the years 2011 and 2012, respectively. Existing collective bargaining agreements likewise declined from 1,413 in 2010 to 1,389 and 1,327 for the years 2011 and 2012, respectively. Workers covered by total existing collective bargaining agreements, however, registered an increase from 212,000 in 2010 to 228,000 and 220,000 in the years 2011 and 2012, respectively.

Table 3. Existing Workers' Organizations and Collective Bargaining Agreements, Philippines: 2010 – December 2012

Indicator	2010	2011	2012
Registered Unions	335	297	189
Federations/Labor Centers	4	-	-
Private Sector Unions	299	257	154
Public Sector Unions	32	40	35
Membership in newly registered unions	30,078	45,999	54,179
Federations/Labor Center	2,479	-	-
Private Sector Unions	23,904	22,633	13,222
Public Sector Unions	3,695	23,366	40,957
Unions Cancelled/Dissolved/Merged/ Consolidated	-	1	2
Private Sector Unions	-	-	-
Public Sector Unions	-	-	-
Federations Cancelled	-	-	-
Existing Unions (as of)	17,973	18,242	18,428
Federations/Labor Center	135	145	145
Private Sector Unions	16,132	16,388	16,541
Public Sector Unions	1,706	1,709	1,742
Membership of Existing Unions (000) (as of)	1,714	1,779	1,833
Private Sector Unions	1,353	1,376	1,833
Public Sector Unions	361	403	446
Workers' Associations (WAs)			
Was Newly Registered	2,821	3,818	3,739
Membership of Newly Registered WAs	116,708	157,037	160,260
Existing WAs (as of)	22,303	26,183	29,922
Membership of Existing WAs (000) (as of)	842	1,001	1,164
Collective Bargaining Agreements (CBAs)			
Registered CBAs	540	475	365
Workers Covered by New CBAs	87,445	77,944	58,138
Expired CBAs	559	507	432
Workers Covered by Existing CBAs (000) (as of)	212	228	220

Notes: 1. Details may not add up to totals due to rounding; 2. Existing federations/labor centers' membership are already included in existing private sector unions.

Source: Current Labor Statistics, Department of Labor and Employment, April 2013.

In contrast, membership of newly registered workers' association that do not negotiate collective bargaining agreements with their employers but were organized solely for mutual aid and protection rapidly increased from 116,708 in 2010 to 157,037 and

160,260 for the years 2011 and 2012, respectively. This, we assume, reflects the workers' fear of the uncertainties of their employment under the supply sidism of globalization on one side, and their lack of trust and confidence on the trade unions' ability to protect their employment despite the long-standing perception that they (trade unions) are the protectors of the workers on the other side.

The other important concerns that must be dealt with are the employment without economic growth, and the request of the International Monetary Fund (IMF) to amend the Constitution as well as the Labor Code by "relaxing ownership to improve business climate."²³ These will be discussed below.

For the year 2012, the Philippine economy grew by 6.6 percent.²⁴ Unemployment remains high at 7.2 percent in January 2012, although it slightly declined to 7.1 percent in January 2013.²⁵ Underemployed persons, defined as "those employed who want additional hours of work," increased by 916,000 or 13.1 percent from 7.018 million in January 2012 to 7.934 million a year earlier.²⁶ The National Statistics Coordinating Board recorded poverty incidence for the first half of 2012 at 27.9 percent.²⁷

Lastly, and most importantly for this paper, the IMF's concern regarding the need to "liberalize rigid labor an product market" would support our thesis for the timeliness of a push to amend our Labor Code, in order to adjust to the new economic system called supply sidism of globalzation. Thus, according to the IMF:

The Philippines and other middle-income Asian economies enjoy better growth prospects than countries in other parts of the world but they must improve government institutions and liberalize rigid labor and product markets if they wish to reach the level of developed countries.²⁸ [Underscoring ours.]

Conclusion

The paper began with the proposition that there is a need to amend the Labor Code to attune its provisions with the current economic regime called supply sidism. Labor administration is a subsystem of the larger economic regime. The Philippine Labor Code is a product of an economic system called demand sidism.

The Labor Code, as a subsystem of the Philippine economic development strategy, is anchored on the concept that increasing workers' wages will create demands in the domestic market. The domestic market was then protected by tariff and other regulations, making foreign-made goods uncompetitive in the domestic market. But this approach was flawed from the very beginning, as the wage and salaried sector of our economy is small, constituting only 10 percent or less of our population.

The other important aspect of the Labor Code is that it is an instrument to promote social justice. Social justice is often employed by the political left to describe a society with greater degree of economic egalitarianism, which may be achieved through progressive taxation, income redistribution, or property redistribution. But having a greater degree of economic egalitarianism without economic growth will not achieve social justice. Without economic growth, a nation can only redistribute poverty equally.

In 1970s, the world economy experienced "stagflation"—an economic situation where inflation is high, economic growth rate slows down, and unemployment remains steadily high. In 1986, our economic paradigm shifted from demand sidism to supply sidism. Under this new paradigm, the Philippine domestic market was opened to foreign-made goods through the reduction or eventual elimination of protective tariffs and other market protections. The objective was to force local industries to move and sell their products to the larger global market. Thus the term "globalization."

Given the above facts, the need to amend the Philippine Labor Code to attune its provisions with the new economic paradigm is no longer debatable. This is now a matter of survival as a nation.

The traditional approach prescribed by the Labor Code of calling a tripartite conference to discuss the need to amend and how it will be amended so far remains futile. The tripartite conferences hosted both by the Department of Labor and Employment and the UP School of Labor and Industrial Relations have so far yielded negative results, largely because of the extreme positioning of the parties, i.e., the trade unions demanding more government interventions, and the employers' organizations demanding less government interventions.

In the light of the above, the author proposes that we follow the manner by which the Labor Code was promulgated during Martial Law. As pointed out above, the Labor Code was a product first of the

various government agencies convened by the academe, and later by tripartite consultation.

Endnotes

¹ See for example www.wisegeek.org

² See for example Standing, G. (1991), *Structural Adjustment*, International Labour Office, Geneva, Switzerland and Dey, I. (1989) "Flexible Parts' and 'Rigid Fulls': The Limited Revolution in Work-Time Patterns, in *Work, Employment and Society*, vol. 3, pp. 464-490. For Philippine experience, see for example Macaraya, B. and Ofreneo, R. (1993) "Structural Adjustment and Industrial Relation: The Philippine Experience," *Philippine Labor Review*, vol. 16, no. 1, pp. 26-86

³ Ibid.

⁴ The basic argument in increasing the standard of living of workers was to improve their capacity to purchase and that part of the program for import substitution was that it was necessary to develop the domestic market. Dunlop in his seminal paper somehow insinuated that improving the standard of living of the actors in industrial relations was the "shared ideology" that binds the whole system together. For more see Dunlop, T. (1993) Revised Edition, *Industrial Relations System*, Harvard Business School Press, Boston

⁵ See for example Ozaki, Muneto (1999), *Negotiating Flexibility*, International Labour Office, Geneva, Switzerland. For the issue of flexibility, see for example Smith, C. (1989) "Flexible Specialization, Automation and Mass Production", *Work, Employment and Society*, vol.16, no. 1, pp. 26-86

⁶ See for example Macaraya, B. (2004) "The Labor Market and Industrial Relations Environment: Policy issues and Options in a Global Economy," *Philippine Journal of Labor and Industrial Relations*, vol. XXIV, nos. 1&2, University of the Philippines School of Labor and Industrial Relations (UP-SOLAIR), Diliman, Quezon City

⁷ See Ranis, G. (1970) *Equity and Growth for the Philippines*, International Labour Office (ILO), Geneva, Switzerland

⁸ Ople, Blas F. (1974) "Preface," *The Labor Code of the Philippines Presidential Decree No. 442*

⁹ Ibid.

¹⁰ Ople, B. F. (1979) "Social Conscience of the World" in *Frontiers of Labor and Social Policy*, Ministry of Labor and Employment, Institute of Labor and Manpower Studies, Manila, Philippines, p. 43

¹¹ For more on the concept of "social justice" see for example Boucher, D. and P. Kelly, Eds. (1998) *Social Justice from Hume to Walser*, Routledge, 11 New Fetter Lane, London

¹² Ibid.

¹³ See *Calalang v. Williams*, 70 Phil. 726

¹⁴ See *Guido v. Rural Progress Administration*, 84 Phil. 847

¹⁵ From 1972 to 1984 the minimum wage rates were increased nineteen (19) times. The increases however were such that the rise in inflation rates continued to surpass the increases in wages. At the end of the day the real wages or the

purchasing ability of the minimum wage declined. See for example Macaraya, Bach 's (1988) *Workers' Participation in the Philippine People Power Revolution*, Friedrich Ebert Stiftung, Manila, Philippines

¹⁶ See for example Macaraya, B. (2004) "The Labor Market and Industrial Relations Environment: Policy Issues and Options in a Global Economy," *Philippine Journal of Labor and Industrial Relations*, UP-School of Labor and Industrial Relations, vol. XXIV, Nos. 1&2, pp. 2 - 31

¹⁷ The term is generally attributed to a British politician who became chancellor of the exchequer in 1970, Iain Macleod, who coined the phrase in his speech to Parliament in 1965.

¹⁸ Ibid.

¹⁹ Standing, G. (1991)

²⁰ See Szal, R. (1999) "Globalization, Employment and Industrial Relations: The Case of the Philippines", in Matchalian, J. M. *Philippine Industrial Relations for the 21st Century: Emerging Issues, Challenges and Strategies*. Proceedings of the National Conference on the Philippine Industrial Relations, University of the Philippines, Quezon City, pp. 50 - 62

²¹ World Trade Organization (2008) *World Trade Report 2008: Trade in Globalizing World*. Retrieved March 26, 2013, from Globalization and Trade, http://www.wto.org/English/res_e/booksp_e/anrep_e/wtr08-2b_e.pdf

²² For more on the structural adjustment see for example Standing, G. (1991) *Structural Adjustment*, International Labour Office, Geneva, Switzerland. For the Philippine Experience see Macaraya, B. and R. Ofreneo (1993) "Structural Adjustment and Industrial Relations: The Philippine Experience," in *Philippine Labor Review*, vol. 16, no. 1, pp. 26 - 86

²³ See for example Magtulis, P. (2013) "IMF to Phl: Ease rules on foreign ownership," *The Philippine Star*, April 20, 2013, p. 1

²⁴ Ibid.

²⁵ See for example Department of Labor and Employment's (2013) *Current Labor Statistics*, April 2013, p. iii

²⁶ Ibid.

²⁷ See for example Torres, T. (2013) "Poverty level in Phl unchanged since '06", *The Philippine Star*, April 24, 2013, p. 1

²⁸ Reuter and Remo, M. V. (2013) "IMF tells PH: Beware of 'middle-income trap,'" *Philippine Daily Inquirer*, April 30, 2013, p. 1

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