

Labor Management Cooperation in the Philippines

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Labor-management cooperation is an idea whose time has come but largely remains suspect. As new challenges arise in the workplace, management is called upon to invest not only in new machines and technology but also in recasting the framework for the relations among the stakeholders in the enterprise. This is because circumstances demand a workplace that is productive and as efficient as in any part of Asia where the country continues to lag behind. In the same manner that the labor movement is called on to reinvent itself in the light of free trade and globalization.

Labor-Management Cooperation under Martial Law

The initial policy experimentations in the area of joint labor-management initiatives came up during the early years of Martial Law.

a) *Policy Instruction No. 17* (May 31, 1976) requires CBAs registered after November 1, 1974 to contain "provisions for labor-management cooperation schemes for increasing productivity, sharing of the benefits resulting therefrom, workers' education, reduction of the monotony of work and recreational activities and job enrichment."

The implied threat of non-certification in the foregoing meant that the "contract bar rule" would not apply hence there would be no stability as to the agreements made by labor and management. However, this policy proved to be ineffective.¹

b) *Letter of Instruction No. 688* (May 1, 1978) directing the Secretary of Labor and the presidents of ECOP and TUCP to "devise a scheme which would promote systematically and on a sustained basis, the establishment of an adequate machinery for positive cooperation between labor and management at appropriate levels of the enterprise. Such machinery should focus on matters of common interest to workers and employers but are not usually the subject of

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¹ Eleuterio Cojuangco, *The National Conciliation and Mediation Board's Labor Management Cooperation Program Report*, in Report of Proceedings DOLE/ILO Training Assessment & Planning Workshop on Labor Management Relations, 1991.

interest to workers and employers but are not usually the subject of collective bargaining. The purpose is to broaden the base of labor-management cooperation and make them true partners in the pursuit of justice-based development". Again the directive failed to move both labor and management to seriously consider LMCs as an option.

Thus, a series of changes were carried out by Batas Pambansa Blg. 130 in both the Labor Code and its Implementing Rules and Regulations, hence:

c) *Art. 278 of the Labor Code as amended by BP 130* (August 21, 1981) which provides, among others:

"The Ministry shall help promote and gradually develop, with the agreement of labor organizations and employers, labor-management cooperation programs at appropriate levels of the enterprise based on shared responsibility and mutual respect in order to ensure industrial peace and improvement in productivity, working conditions and the quality of working life." It also provides that "in establishments where no labor organizations exists, labor management committees may be formed voluntarily by workers and employers for the purpose of promoting industrial peace."

d) *Rule XII, Book V of the Implementing Rules of the Labor Code* (September 4, 1981) provides for the promotion of constructive and positive cooperation by requiring certain reports on labor management cooperation activities undertaken:

"The employer and the labor union concerned shall be encouraged to report to the Department of Labor labor-management cooperation programs which may have been undertaken by them. The employer shall likewise report the creation of any labor-management committee within its establishments. He shall also report the activities of such committee from time to time whenever required by the Department."

However nobly framed these pronouncements were, the LMC program of the Marcos era remained nebulous particularly since the other policies of the government that pertained to labor belied the sincerity of the foregoing. Moreover, no particular agency was mandated to spearhead the program. Thus, few if any shop floor developments pursued the policy initiatives. Thus, at the time the NCMB was organized in 1988, it was discovered that there were only 28 companies with functional LMCs. ²

Enhancing the LMC Program

Efforts to install an LMC program became more earnest during the Aquino administration particularly in the so-called season of

² Id. Although "Bayanihan" of Unilab, a pharmaceutical company, asserts that it was a prototype of an LMC as early as 1958. See Benito M. Claudio, *Labor Management Cooperation on Higher Productivity: Role of Management in the Philippines*. UP SOLAIR Library. 1998

wildcat strikes that saw the Laguna industrial area abloom with red placards and streamers announcing strikes and pickets in progress. At the core of this was the expanded provision in the 1987 Constitution that appeared to permit a wider democratic space for labor.

This was coupled by the re-engineering of the DOLE which led to the creation of the National Conciliation and Mediation Board and incorporating into the new agency the conciliation, mediation and arbitration functions of the Bureau of Labor Relations. Part of its principal mandate was the promotion of *cooperative and non-adversarial schemes*, grievance handling, voluntary arbitration and other voluntary modes of dispute settlement.

Earlier, the Department of Trade and Industry (DTI), at this time headed by industrialist Jose Concepcion, a known political ally of President Aquino, and the then UP Institute of Industrial Relations (now UP School of Labor and Industrial Relations) launched the Pro-Active Program for Industrial Peace and Harmony as a joint project on October 26, 1986.

With its reorganization, the DOLE issued Department Order No. 21 in 1988 "to promote LMC pursuant to the constitutional mandate of encouraging shared responsibility between workers and employers, voluntary approaches to dispute settlement and prevention, and enhancing workers participation in decision-making. More importantly, the policy emphasized that "LMC shall be promoted at all times within the framework of the state guarantee of freedom of association and collective bargaining."³

The term labor management cooperation referred to any of the variety of ways by which labor and management can work jointly to identify and solve problems and address concerns of mutual interest to them. In fact, the issuance stopped short of endorsing any particular model of labor management cooperation but sought instead to prescribe possible directions that may be taken.⁴

It was emphasized that LMCs shall be voluntary on the part of both labor and management, that it was desirable that labor enjoy equal footing with management.⁵ All matters pertaining to employment not covered by CBA shall be areas of concern for the LMC. Moreover, it may be formally structured such as Labor-Management Councils or it may be informal or unstructured but in whatever form, they "shall provide avenues and opportunities for dialogues, consultations and participative decision-making." LMCs may also be organized at regional, provincial, community, industry or sectoral levels.⁶

³ Par. 2, Department Order No. 21, Series of 1988.

⁴ Par. 3, Id.

⁵ Par. 4, DO 21

⁶ Par. 3, DO 21

The recognition of the potential of LMC in bringing about a stable though dynamic industrial relations was further firmed up and given statutory expression when Republic Act 6715, also known as the Herrera law, was promulgated on March 2, 1989.⁷ In amending the Labor Code provision on exclusive bargaining representation, the law recognized that the CBA was not the only means by which workers can participate in decision-making at the shop floor, hence:

“Art. 255... Any provision of law to the contrary notwithstanding, subject to such rules and regulations as the Secretary of Labor and Employment may promulgate, to participate in policy and decision-making processes of the establishments where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form labor-management councils. Provided that the representatives of the workers in such labor-management councils shall be elected by at least the majority of all employees in said establishment”

The clear intent to provide the push for joint labor-management initiatives in the workplace was amplified further in the amendment to Art. 277 of the Labor Code by the same law which amendment granted workers and management in unorganized establishment the LMC option, hence:

“Art. 277. In establishments where no legitimate labor organizations exist, labor management committees may be formed voluntarily by workers and employers for the purpose of promoting industrial peace. The Department of Labor and Employment shall endeavor to enlighten and educate the workers and employers on their rights and responsibilities through labor education with emphasis on the policy thrusts of this Code.”

Framing Appropriate Perspectives for LMC

It was understandable that during the turbulent period following the assumption of the Aquino administration, the LMC, at that time a newly-introduced approach to industrial relations, was viewed as a near cure-all for ills that beset a workplace.

With no guiding principles on hand and with the NCMB still to be organized in 1988, there was a drift that the approaches to LMC

⁷ After the principal author of the bill at the Senate, Sen. Ernesto Herrera, a former ranking officer of the Trade Union Congress of the Philippines (TUCP), who was elected to the Senate as a candidate of President Corazon Aquino's coalition party.

that were being disseminated at the time seemed to promote LMCs at the expense of the workers' right to self-organization. Among those who assailed this direction was the UP SOLAIR faculty in its Resolution of September 6, 1989.

It may be noted that LMCs in the Philippines promotes not so much a framework for co-determination as in the various forms of works councils found in many European countries but the basic notion of consultation by management of its workforce, as in Japan. It has been noted that while LMCs are widely accepted and practiced in Japan, this came about only after Japan's economy had attained full bloom and that while LMC is a pillar of the Japanese industrial relations system together with collective bargaining and small group activities (Quality Circles) all of these complement one another. LMC is in fact a subject of collective bargaining.⁸

In Japan, labor management cooperation was part of the so-called Three Guiding Principles (increase employment; labor-management cooperation; and fair distribution of productivity gains) proclaimed by the Japan Productivity Center upon its establishment in 1955.⁹

The slow acceptance of LMCs in the Philippines is not at all unique. Japanese unionists denounced labor management cooperation in its early years as contrary to the Marxist theory of class struggle.¹⁰ It was only in the period 1976-1985 when the decreasing demand for labor and the ageing of the workforce started to appear that both sides were urged to join hands to account for their responsibility to society.¹¹ At present, it is said that majority of Japanese unions (50.5%) prefer joint consultations with 78.1% of the unions with a joint consultative body and 85.6% of these unions distinguish between matters dealt with through joint consultation and those dealt with at the CBA.¹²

State of LMC Practice

As early as 1981, a group of researchers from the UP Institute of Labor and Industrial Relations conducted a survey of the collective bargaining agreements of 15 textile and electronics companies in Metro Manila.¹³ It may be noted that this was during the height of the

⁸ Id.

⁹ Jinnosuke Miyai, *Productivity and Labor Management Cooperation*, in *Labor Management Cooperation: Workers' Participation*. Asia Productivity Organization (APO) 1997, at 43.

¹⁰ Id.

¹¹ Hisaharu Hara, *From Labor Dispute to Cooperation*, in *Labor Management Cooperation: From Labor Dispute to Cooperation*, APO, 1996, at 12-13.

¹² Bulletin of the Japan Institute of Labor, Vol. 37, No. 8, August 1, 1998

¹³ Marie Aganon et al., *Fringe Benefits and Labor Management Committees in Selected Textile and Electronics Establishments in Metro Manila*, 1981

authoritarian regime of President Marcos when the government's LMC program stalled. Yet, the team concluded that the existence of an LMC in an establishment is significantly related to the provision of bonuses like 13th month pay, Christmas, year-end, signing, loyalty and incentive bonuses while workers in establishments without an LMC did not enjoy as many types of bonuses as those covered by agreements with provisions for LMC.

A pioneering study of LMCs in the Philippines was conducted jointly by the DAP-PDC and the DOLE-NCMB in 1994. Among its findings was that the management panels in the LMCs were usually composed of four to six members with the same number from labor although it was only in eight cases that there was an equal representation of both labor and management panel in the LMC. Of the management panel, the most frequent members among the respondents was the personnel manager (30%), production manager (21.2%), finance manager (13.9%), company president (9.3%), and marketing manager (7.3%). Among the labor panels, the union president was the most frequent member (28%) while the union vice-president and secretary both ranked second with 23% each.

For both management and labor, the main objectives of their LMC were to minimize conflict between labor and management, enhance labor-management relations, and improve productivity of the company. Other options like opening up lines of communication, shared responsibility and mutual respect, and supplementing grievance process received few votes.

As to problems in implementing LMC programs, the following were ranked highly by both sides:

- a) Irregular meetings
- b) Difficulty in arriving at decisions
- c) Poor dissemination of information
- d) Meetings are not well-prepared
- e) Lack of top management commitment
- f) Mistrust
- g) Conduct of meetings are still adversarial
- h) CEO not represented in management side
- i) Non-implementation of agreed plans

Among the recommendations of the study were the greater focus to productivity and quality improvement that must be taken by companies in their LMCs to broaden the scope of the same beyond mere conflict resolution or industrial relations concerns. The results indicated that management must take steps to carry out greater transparency in their operations such as informing their workers about company plans and targets so that there could be feedback on the viability of these goals and targets.

Non-Unionized Establishments

It goes without saying that the nature of interaction between workers and management in a non-unionized company is vastly different from that in a unionized or organized establishment.

While some non-unionized establishments in the Philippines have adopted the LMC scheme for their own purposes, there are some non-unionized companies which have instead organized the so-called *employees' councils*. The idea of employees' councils began with United Laboratories (UNILAB), a sprawling pharmaceutical company owned by Jose Yao Campos, a businessman known to be an associate of former President Ferdinand Marcos. The employees' council was the only venue for employee-employer dialogue in the non-unionized company. In time, the model was copied by several other companies mostly non-unionized as well.¹⁴

Organized Labor's Responses to LMC

The Federation of Free Workers (FFW) has on several occasions expressed its support to the establishments of LMCs in the workplace.

The Trade Union Congress of the Philippines (TUCP) has also supported the idea of LMCs but assailed the tendency of some trainers who promote LMCs as a substitute to workers' organizations and CBA.

On the other hand, the *Kilusang Mayo Uno* (KMU), while exploring mainstream political currents particularly by striking moderate positions on a number of issues and by being a visible member of civil society during the efforts to oust former President Joseph Estrada, its doctrinaire position on LMC is unchanged.

Despite the seemingly unchanging position taken by KMU as a labor federation, it has not prevented unions at the establishment level under its influence to join hands with the management of their respective enterprises in organizing LMCs.¹⁵ In practice it has left unions allied to it to determine for themselves if the LMC concept would work for them in their dealings with management.

A Journey of a Thousand Miles

At this point, the LMC program has clearly taken some roots. Despite uneven progress through the years, the efforts taken by both government agencies and non-government organizations to disseminate and spread the idea of LMC among work places and among both workers and management ensures that the opinion of non-adversarial relations can work for both sides.

¹⁴ Information on *employees councils* were provided by Gloria S. Gapuz, President of the Employees' Councils Association of the Philippines (ECAP) during an interview with the author on May 4, 2002.

¹⁵ See Directory of LMC Practitioners in the Philippines, PHILAMCOP, 2002.

It is easy to observe that unlike conciliation and mediation or even voluntary arbitration, the work in LMCs do not end when they are organized or when the conflict is resolved. In fact, the organization of an LMC does not promise nor does it mean that henceforth there will be no more contentious issues between the workers and the employers in that establishments. What LMCs assure is that with LMCs in a workplace both sides can be assured of a channel where mutual concerns can be addressed or an issue discussed before it festers. In this regard, the organization of an LMC in an establishment reflects not a completion but rather a first step toward a more "talky" relationship between the stakeholders.

Unlike other interventions in the workplace, LMCs require both labor and management to attain a certain level of maturity. Unlike in conciliation, mediation or voluntary arbitration, both sides are required more than just to attend meetings or submit position papers. It requires both sides to continuously take stock of their strengths and areas for growth. For management, the greater effort is discarding the habit of unilateral decisions and the recognition that their workers are not just extensions of their production schedules and machines but partners who when given the chance can provide new impetus to efficiency and innovation in the workplace.