

# Fundamental Labor Rights and Their Relevance for the Philippines

Dr. Gert Gust \*

**T**he World is undergoing vast economic and social changes which compare in magnitude and impact with the Industrial Revolution of the 19<sup>th</sup> Century. A new international global market is emerging where developed and developing countries compete, as best as they can, by focusing on their competitive advantage in areas of technology, natural resources, manpower and/or labor cost.

This has far-reaching implications on employment, incomes, working conditions and industrial relations.

This review gives some highlights on the intensive debate of these issues in international fora, which culminated in the adoption in June 1998 of the ILO Declaration on "Fundamental Principles and the Rights at Work". (Annex I)

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\* Dr. Gust is Visiting Professor at the UP School of Labor and Industrial Relations.

## **Globalisation: Challenges and Opportunities**

The current drive for the globalisation of the world economy through a liberalisation of trade, the expansion of investment flows, the improvement of communications and the increased exchange of technology holds promise of economic and social progress everywhere, but also carries risks of unemployment and exclusion.

For Robert Reich, the former U.S. Secretary of Labor, the dramatic changes offer great possibilities of a more productive world and a better life for everyone; he cautions however against the risk of "jobless growth" as a major challenge of our times and calls for efforts, both nationally and internationally, for developing and protecting the most valuable asset - our workforce. According to Senator Ople, prevailing neo-classical economic policies on the laws of supply and demand as the sole standard-setter in the labor market have their limits. For him there is a need that the rule of the "invisible hand" be reined in by guarantees of human rights and minimum standards of human dignity at the workplace.

At the Social Summit in Copenhagen in 1995 and the Ministerial Conference of WTO in Singapore in 1996, a consensus emerged on the need to flank global economic activities with social policies and programs. The ILO was acknowledged as the competent international organisation to create and monitor such a framework for the promotion of fundamental labour rights under conditions of globalisation.

Adopted by the International Labour Conference in June 1998, the "Declaration on Fundamental Principles and Rights at Work and its Follow-up" is an important step towards a global development strategy that is based on mutually reinforcing economic and social policies. The content of the Declaration and its relevance for the Philippines are highlighted below.

### **The ILO and its Declaration on Fundamental Principles and Rights at Work**

Since its creation in 1919, the ILO has been promoting fundamental workers rights through the adoption of International Labour Standards, research and publication on labour and employment matters as well as through technical assistance. The "International Labour Code" embodies 174 Conventions and 181 Recommendations, which contain internationally-accepted guidelines on labour

policy and working conditions ranging from employment to labour matters, from economic to social development to workers' rights and working conditions.

While only a few Conventions deal with the fundamental labour rights — also known as “core” or “human rights” conventions — the majority of Conventions deal with a wide range of issues related to the World of work: Occupational Safety and Health, Social Security, Cooperatives, Employment, etc.

ILO's 174 member countries, including the Philippines, are expected to ratify the conventions and translate the guiding principles contained in these conventions into national legislation. Monitoring and reporting procedures are in place to review the status of ratification and application periodically. A special complaints procedure exists to examine infringements of the principles in Conventions on Freedom of Association.

1. freedom of association and the effective recognition of the right to collective bargaining;
2. the elimination of all forms of forced labour;
3. the effective abolition of child labour; and
4. the elimination of discrimination in respect of employment and occupation.

In adopting the Declaration it was made clear that its provisions are not an instrument of protectionism. In other words, under no circumstances should the Declaration be evoked for the purpose of trade sanctions. The purely promotional character of the Declaration was one of the reasons for its adoption, without any dissenting vote, at the International Labour Conference in 1998.

### **The “Core” ILO Conventions**

The above four guiding principles are embodied in the following seven “CORE” Conventions which are also often referred to as human rights conventions in the field of labour:

1. Convention Nr. 87 (1948), Freedom of Association; ratified by 122 countries;
2. Convention Nr. 98 (1949), Collective Bargaining; ratified by 138 countries;
3. Convention Nr. 29 (1930), Forced Labour; ratified by 149 countries;

4. Convention Nr. 105 (1959), Abolition of Forced Labour; ratified by 130 countries;
5. Convention Nr. 100 (1950), Equal Pay, ratified by 137 countries;
6. Convention Nr. 111 (1958), Prohibition of Discrimination of Employment; ratified by 130 countries;
7. Convention Nr. 138 (1973), Minimum Age of Employment; ratified by 63 countries.

### **Practical Application of the Declaration**

One has to acknowledge that the practical application of the Declaration, including the core conventions is sometimes hampered by a lack of political will; often a mix of problems has to be overcome like slow economic growth, unemployment, lack of solidarity or antiquated social structures, and the like. The ILO is therefore providing a broad arsenal of measures or ensure the wider application of core conventions, embodied in the Declaration.

In a speech before the 1999 annual meeting of the Asian Development Bank (ADB) in the ad interim governor of the United States, Edwin M. Truman, emphasized that a powerful means of promoting core labor standards would be their incorporation in the lending policies of international financial institutions such as the ADB and the World Bank. Internationally-recognized core labor standards should be incorporated into development programs, policies and projects. Cooperation with the International Labor Organization (ILO) should be increased and formalized and analyses of adherence to core labor standards should be a key element of country assistance strategies. Given the critical role of labor policies in the formation of sustainable development, these issues deserve to be central to the development agenda of the ADB.

### **Follow - up Mechanisms**

The Declaration has follow-up mechanisms to systematically review progress made by ILO member countries in applying the principles of the "core" conventions. This includes annual reports by individual member countries on non-ratified "core" conventions as well as global reports by the ILO Director-General on the world-wide application of each category of the guiding principles and fundamental workers' rights. This review includes particularly an assessment of the effectiveness of ILO technical support in the application of the fundamental workers' rights in individual countries.

## **The ILO Declaration and the Philippines**

As a member country of the ILO, the Philippines is bound by the Declaration to apply its provisions in law and practice and to comply with established reporting procedures. In its effort to implement the guiding principles of the Declaration, the Philippines can draw on ILO's technical cooperation.

The Philippines and the ILO have a long tradition of cooperation. A member since 1948, the Philippines has ratified 30 conventions including all but one (Nr. 29) of the core conventions. Annex II gives the list of ILO conventions ratified by the Philippines. The Philippine Labour Code of 1974 and the Philippine Constitution of 1987 are broadly in line with the spirit of the core conventions. In particular, the principles of the ILO Conventions, notably the "core" conventions, are well reflected in the Philippine Constitution, which provides in Section 3, Article XIII that the State should guarantee the right of all workers to self-organisation, collective bargaining and negotiations, including the right to strike in accordance with law. The Constitution acknowledges the principles of shared responsibility of employers and workers in maintaining constructive industrial relations and the preferred use of voluntary modes of setting disputes, including conciliation. It further stipulates that workers shall be entitled to security of tenure, humane conditions of work and a living wage and shall also participate in policy and decision-making affecting their rights and benefits. The constitutional provisions have been translated into a vast body of legislation, policies and jurisprudence. They frequently serve as a point of reference in the parliamentary debate, in media reports and academic analyses of political, social and economic issues and events.

Over the years, the practical application of labor rights has been mixed, and labor rights have variably been respected and contested depending on the economic, political and social environment. There have been cases of infringement of trade union or workers' rights over the past decades and several cases have been referred to and been reviewed by the ILO Governing Body Committee on Freedom of Association, which has expressed its views on possible corrective measures.

At the time there has been commendable progress in such areas as the fight against child labour. Not only has the Philippines ratified Convention No. 138 on the Minimum Age of Employment and adopted comprehensive legislation against child labour, but it has

also done much pioneering work in designing and implementing programmes to address the problem. A case in point are projects to rehabilitate scavenger children from "Smokey Mountain" and to withdraw child divers from Muro-Ami fishing. Assisted by the ILO in the mid 1980's, these projects have helped to develop concepts and approaches that are now widely applied, here and in other countries, in the ILO's International Programme on the Elimination of Child Labor (IPEC).

## **Conclusions**

Globalisation involves challenges and opportunities for all members of the international community in terms of economic and social progress. Only the future will show whether the expected economic gains of globalisation will be matched by equitable social development. The ILO Declaration is a new international instrument holding promise that fundamental workers' rights, will, indeed receive due attention in the drive for further globalisation.

Economic growth and social justice are not mutually exclusive. In fact there is conclusive evidence that an erosion or denial of workers' rights does not lead to economic advantage, at least not on the longer run. On the other hand, one can observe that many countries have prospered and achieved social and economic stability, where workers' rights are well established and enforced, and workers have a fair share in national income. The same experience applies to successful companies and corporations which place emphasis on the development and participation of the workforce.

The debate on globalisation with social justice is well underway and will culminate in a national conference in November 1999 on Philippine Industrial Relations of the XXIst Century. The forthcoming review on the Philippine Labor Code and the formulation of a Five-Year Development Plan offer unique opportunities to ensure that the fundamental workers rights are being fully applied in practice for the benefit of all workers in an expanding economy. Since the Philippines is the only Asian country that has codified its labor laws, the forthcoming revision of the Labor Code, including a possible alignment with ILO Declaration, will command considerable interest by the international community.

## **Annex I**

### **ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK**

Whereas the ILO was founded in the conviction that social justice is essential to universal and lasting peace;

Whereas economic growth is essential but not sufficient to ensure equity, social progress and the eradication of poverty, confirming the need for the ILO to promote strong policies, justice and democratic institutions;

Whereas the ILO should, now more than ever, draw upon all its standard-setting, technical cooperation and research resources in all its areas of competence, in particular employment, vocational training and working conditions to ensure that, in the context of a global strategy for economic and social policies are mutually reinforcing components in order to create broad-based sustainable development;

Whereas the ILO should give special attention to the problems of persons with special social needs, particularly the unemployed and migrant workers, and mobilize and encourage international, regional and national efforts aimed at resolving their problems, and promote effective policies aimed at job creation;

Whereas, in seeking to maintain the link between social progress and economic growth, the guarantee of fundamental principles and rights at work is of particular significance in that it enables the persons concerned to claim freely and on the basis of equality of opportunity their fair share of the wealth which they have helped to generate, and to achieve fully their human potential;

Whereas the ILO is the constitutionally mandated international organization and competent body to set and deal with international labour standards, and enjoys universal support and acknowledgement in promoting fundamental rights at work as the expression of its constitutional principles;

Whereas it is urgent, in a situation of growing economic interdependence, to reaffirm the immutable nature of the fundamental principles and rights embodied in the Constitution of the Organization and to promote their universal application;

## The International Labour Conference,

### 1. Recalls:

(a) that in freely joining the ILO, all Members have endorsed the principles and rights set out in its Constitution and in the Declaration of Philadelphia, and have undertaken to work towards attaining the overall objectives of the Organization to the best of their resources and fully in line with their specific circumstances;

(b) that these principles and rights have been expressed and developed in the form of specific rights and obligations in Conventions recognized as fundamental both inside and outside the Organization.

### 2. Declares that all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject of those Conventions, namely:

(a) freedom of association and the effective recognition of the right to collective bargaining;

(b) the elimination of all forms of forced or compulsory labour;

(c) the effective abolition of child labour; and

(d) the elimination of discrimination in respect of employment and occupation.

### 3. Recognizes the obligation on the Organization to assist its Members, in response to their established and expressed needs, in order to attain these objectives by making full use of its constitutional, operational and budgetary resources, including the mobilization of external resources and support, as well as by encouraging other international organizations with which the ILO has established relations, pursuant to article 12 of its Constitution, to support these efforts:

(a) by offering technical cooperation and advisory services to promote the ratification and implementation of the fundamental Conventions;

(b) by assisting those Members not yet in position to ratify some or all of these Conventions in their efforts to respect, to promote and to realize the principles concerning fundamental rights which are the subject of those Conventions; and

(c) by helping the Members in their efforts to create a climate for economic and social development.

4. Decides that, to give full effect to this Declaration, a promotional follow-up, which is meaningful and effective, shall be implemented in accordance with the measures specified in the annex hereto, which shall be considered as an integral part of this Declaration.
5. Stresses that labour standards should not be used for projectionist trade purposes, and that nothing in this Declaration and its follow-up shall be invoked or otherwise used for such purposes; in addition, the comparative advantage of any country should in no way be called into question by this Declaration and its follow-up.

### **Follow-up to the Déclaration**

#### **I. OVERALL PURPOSE**

1. The aim of the follow-up described below is to encourage the efforts made by the Members of the Organization to promote the fundamental principles and rights enshrined in the Constitution of the ILO and the Declaration of Philadelphia and reaffirmed in this Declaration.
2. In line with this objective, which is of a strictly promotional nature, this follow-up will allow the identification of areas in which the assistance of the Organization through its technical cooperation activities may prove useful to its Members to help them implement these fundamental principles and rights. It is not a substitute for the established supervisory mechanisms, nor shall it impede their functioning; consequently, specific situations within the preview of those mechanisms shall not be examined or re-examined within the framework of this follow-up.
3. The two aspects of this follow-up, described below, are based on existing procedures: the annual follow-up concerning non-ratified fundamental Conventions will entail merely some adaptation of the present modalities of application of article 19, paragraph 5(e) of the Constitution; and the global report will serve to obtain the best results from the procedures carried out pursuant to the Constitution.

## II. ANNUAL FOLLOW-UP CONCERNING NON-RATIFIED FUNDAMENTAL CONVENTIONS

### A. Purpose and scope

1. The purpose is to provide an opportunity to review each year, by means of simplified procedures to replace the four-year review introduced by the Governing Body in 1995, the efforts made in accordance with the Declaration by Members which have not yet ratified all the fundamental Conventions.
2. The follow-up will cover each year the four areas of fundamental principles and rights specified in the Declaration.

### B. Modalities

1. The follow-up will be based on reports requested from Members under article 19, paragraph 5(e) of the Constitution. The report forms will be drawn up so as to obtain information from governments which have not ratified one or more of the fundamental Conventions, on any changes which may have taken place in their law and practice, taking due account of article 23 of the Constitution and established practice.
2. These reports, as compiled by the Office, will be reviewed by the Governing Body.
3. With a view to presenting an introduction to the reports thus compiled, drawing attention to any aspects which might call for a more in-depth discussion, the Office may call upon a group of experts appointed for this purpose by the Governing Body.
4. Adjustments to the Governing Body's existing procedures should be examined to allow Members which are not represented on the Governing Body to provide, in the most appropriate way, clarifications which might prove necessary or useful during Governing Body discussions to supplement the information contained in their reports.

## III. GLOBAL REPORTS

### A. Purpose and scope

1. The purpose of this report is to provide a dynamic global picture relating to each category of fundamental principles and rights noted during the preceding four-year period, and to serve as a basis for assessing the effectiveness of the assistance pro-

vided by the Organization, and for determining priorities for the following period, in the form of action plans for technical cooperation designed in particular to mobilize the internal and external resources necessary to carry them out.

2. The report will cover, each year, one of the four categories of fundamental principles and rights in turn.

#### B. Modalities

1. The report will be drawn up under the responsibility of the Director-General on the basis of official information, or information gathered and assessed in accordance with established procedures. In the case of States which have not ratified the fundamental Conventions, it will be based in particular on the findings of the aforementioned annual follow-up. In the case of Members which have ratified the Convention concerned, the report will be based in particular on reports as dealt with pursuant to article 22 of the Constitution.
2. This report will be submitted to the Conference for tripartite discussion as a report of the report of the Director-General. The Conference may deal with this report separately from reports under article 12 of its Standing Orders, and may discuss it during a sitting devoted entirely to this report, or in any other appropriate way. It will then be for the Governing Body, at an early session, to draw conclusions from this discussion concerning the priorities and plans of action for technical cooperation to be implemented for the following four-year period.

#### IV. IT IS UNDERSTOOD THAT:

1. Proposals shall be made for amendments to the Standing Orders of the Governing Body and the Conference which are required to implement the preceding provisions.
2. The Conference shall, in due course, review the operation of this follow-up in the light of the experience acquired to assess whether it has adequately fulfilled the overall purpose articulated in Part I.

**Annex II****ILO CONVENTIONS RATIFIED BY  
THE PHILIPPINE GOVERNMENT**

(Status as of 1998)

ILO Convention Number	Subject	Adopted by ILO	Ratified by Philippines
17	Workmens' Compensation (Accidents)	1925	November 1960
19	Equality of Treatment (Accident Compensation)	1925	April 1994
23	Repatriation of Seamen	1926	November 1960
53	Officers' Competency Certificates	1936	November 1960
59	Minimum Age (Industry) (Revised)	1937	November 1960
77	Medical Examination of Young Persons (Industry)	1946	November 1960
87	Freedom of Association and Protection of the Right to Organise	1948	December 1953
88	Employment Service	1948	December 1953
89	Night Work (Women) (Revised)	1948	December 1953
90	Night Work of Young Persons (Industry) (Revised)	1948	December 1953
93	Wages, Hours of Work and Manning (Sea) (Revised)	1949	December 1953
94	Labour Clauses (Public Contracts)	1949	December 1953
95	Protection of Wages	1949	December 1953
98	Right to Organise & Collective Bargaining	1949	December 1953
99	Minimum Wage-fixing Machinery (Agriculture)	1951	December 1953
100	Equal Remuneration	1951	December 1953
105	Abolition of Forced Labour	1957	November 1960
110	Plantation	1958	September 1968
111	Discrimination (Employment & Occupation)	1958	November 1960
118	Equality of Treatment ( Social Security)	1962	April 1944
122	Employment Policy	1964	December 1976
138	Minimum Age of Admission to Employment	1973	October 1997
141	Rural Workers' Organisation	1975	June 1979
144	Tripartite Consultation	1976	April 1991
149	Nursing Personnel	1977	June 1979
157	Maintenance of Social Security Rights	1982	April 1994
159	Vocational Rehabilitation and Employment (Disabled Persons)	1983	July 1990
165	Social Security (Seafarers)(Revised)	1987	April 1994
176	Safety and Health in Mines	1995	December 1998
179	Recruitment and Placement of Seafarers	1996	January 1998

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