

## **Workers' Fighting Mood and the Cycle of Labor Conflict at Philippine Airlines from 2009 to 2019**

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### **Abstract**

The outsourcing dispute between Philippine Airlines (PAL) and the union Philippine Airlines Employees Association (PALEA) has arguably played a part in the workers' unrest over endo under the administration of President Rodrigo Duterte. Thus the relevance of looking back at the dynamics and development of the PAL-PALEA labor row to understand its connection to today's wave of strikes. Using concepts from institutionalism and Marxism as lenses to investigate the PAL-PALEA dispute reveals key lessons. From 2009 to 2019, the PALEA struggle had gone through one complete cycle of revival then decline of militancy. The fighting mood of workers is a wellspring from which labor unions draw their strength, which, for PALEA, led to the partial victory of a settlement agreement. But the workers' fighting mood is conditioned by the outcomes of the interactions of actors within the labor market and larger society. In the case of PALEA's fight against outsourcing, there were key

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institutional barriers that prevented total victory. The study concludes that the fighting mood of workers ebbs and flows. It revives on the basis of unresolved grievances and correct tactics but defeats lead to the decline of militancy and the return of factionalism.

**Keywords:** Philippine Airlines, PALEA, labor militancy, contractualization, outsourcing, strike

## **Introduction**

In the first half of the administration of President Rodrigo Duterte, the number of strikes and notices of strike significantly increased compared to that of the previous period. The noticeable shift has led to media reports about the rise of workers' unrest (Espina-Varona, 2018; Medenilla, 2018a; Medenilla, 2018b; Venzon, 2018). Indeed, as described by Venzon (2018), in Duterte's first year in office, strikes ratcheted up to 15, thrice the number in 2015. There were nine strikes in 2017 but were double digits again in 2018. According to Medenilla (2018b), notices of strike reached 155 in first half of 2018, which was 19 percent higher than the same period in the previous year.

The reports conclude that the unrest is rooted in Duterte's famous promise to end "endo," or or employment until the end of the work contract (Añago, 2021) which raised the expectations of workers and bolstered the anti-contractualization campaign of labor groups. The connection is not lost to any industrial relations practitioner, given the experience of the high-profile regularization disputes since 2016 like PLDT, NutriAsia and Zagu. Even the strike at the giant Philip Morris Fortune Tobacco, the first in 33 years, was both due to mass layoff and job contracting (Partido Manggagawa, 2018).

Before the wave of strikes under the current dispensation, the biggest labor dispute under the previous administration of Benigno Aquino III was the outsourcing row between Philippine Airlines (PAL) and the union Philippine Airlines Employees Association (PALEA) from 2009 to 2013. The PAL-PALEA dispute indirectly paved the way for the current labor unrest around endo. First, the row brought PAL to the edge of a strike twice in 2010 and 2011 then the airline was paralyzed

for several months by a sit-down protest in September 2011. The high-profile dispute brought the contractualization issue to the forefront of the national consciousness (Velasco, 2018). It was this discontent over *endo* which was precisely the springboard for then candidate Duterte's promise. Second, the solidarity movement for PALEA directly led to the birth of the labor coalition Nagkaisa (Rivera & Velasco, 2013; Certeza, 2016). In the last three years, Nagkaisa has consistently lobbied and campaigned for regulation on contractualization on the basis of Duterte's *endo* promise.

Thus, to understand the dynamics of the current workers unrest over *endo*, it makes sense to study the dynamics of the PAL-PALEA dispute over outsourcing. Indeed, the past shines a light on the predicaments of the present. The popular unrest over contractualization is a thread that runs directly from PALEA's fight against outsourcing to the *endo* strikes at PLDT, NutriAsia and Philip Morris Fortune Tobacco.

### **Framework and Methodology**

Labor history is a branch of social history that deals with the dynamics of past events that affect the development of the working class in general and the labor movement in particular. Early labor historians like Sydney and Beatrice Webb used institutionalism in looking at the fortunes of the powerful British labor movement in their seminal work *History of Trade Unionism* (1894). Later labor historians though used the perspective of Marxism in analyzing the birth and growth of the union movements in Britain and elsewhere. Examples of these are E. P. Thompson's *The Making of the English Working Class* (1963) and Eric Hobsbawm's *Primitive Rebels* (1959) and *Labouring Men* (1964). This paper used both the insights of institutionalism and Marxism in investigating the dynamics and development of the struggle of PALEA against contractualization at the national flag carrier.

Institutionalism is relevant given the tripartite character of Philippine industrial relations and the interactions of the three main players in the PAL-PALEA dispute along with new industrial relations actors like the Catholic Church and labor-based parties like Partido Manggagawa (PM). Institutional economics, of which industrial relations is the "labor branch" (Kaufman, 2007, p. 9), proceeds from an empirical,

inductive and historical study of economic facts in order to find patterns. It differs therefore from neoclassical economics which starts from a few fundamental assumptions to build a mathematical model of human economic behavior using a deductive approach. Thus, aside from the market, institutional economics also considers command and customs as central institutions in the economy. On the basis of institutional economics, industrial relations theory considers firms, unions, government as main actors and processes like collective bargaining, strikes and picketing, mediation and arbitration, and human resources management as among the ways to set rules in the employment relationship (Kaufman, 2004; Kaufman, 2007).

Further, according to Steinmo (2008, p. 118) historical institutionalism is not a theory or method but is an "approach to studying politics." It emphasizes that social behavior is structured by institutions and how these have evolved over time through interaction with other institutions. Institutions are either formal rules or informal norms. Formal and informal rules influence the behavior of actors by either facilitating or deterring action.

Likewise, Marxism is useful in grasping the rootedness of workers' consciousness in their conditions of work, and also the variations in militancy as a result of the outcomes of struggle. The workers' fighting mood was a key force at play in the dispute. Among the key ideas of Marx and Engels (1961) was that exploitation is at the root of the conflict between the working class and the capitalist class. The conflict starts from primitive forms then becomes institutionalized in unionism and bargaining but such will be transcended when the class struggle climaxes in a socialist revolution.

Arguably, Marxism as a theory is an outlier in industrial relations which focuses instead on regulating, not abolishing the employment relationship. Later Marxists like Braverman (1974), critiqued the paradigms of organizational development and human resources management that were key industrial relations concepts in comprehending workplace relationships. These paradigms posited that various schemes of job satisfaction and employee engagement were enough in resolving the conflict between employees and employers. Instead, Braverman (1974) ignited a debate by reviving the theory of exploitation—the extraction of surplus value from workers—as

the basis for grasping the reality of worker alienation. Workers lose control over the labor process through different means of deskilling. Exploitation, alienation and deskilling are the objective basis of worker opposition to capitalists.

In this case study, the outsourcing dispute between PAL and PALEA is comprehended as a conflict over the labor process and an example of class struggle at a local level with the fighting mood of workers as a key variable. The outcomes of this labor conflict are mediated by interaction of the various institutions in the labor market and larger society.

The data used in the research were gathered using analysis of documents, key informant interviews and participant observation. Documents reviewed included leaflets, backgrounders and press releases by PALEA. Informants interviewed in late 2019 were Alnem Pretencio, PALEA vice president, and Rene Magtubo, PM chair.

Still the bulk of the data utilized in the study were taken from the blogsite of PM (<https://partidongmanggagawa2001.blogspot.com/>). The data is thus factual and of public knowledge since it is available in the public domain through the PM blogsite. The author was administrator of the blog from its inception until 2018. The blog is effectively the journal used in the participant observation method for this research. The researcher was among a group of PM members who closely worked with PALEA officers in strategizing the fight against outsourcing. Thus, the study is an insider's assessment of the dynamics of the PAL-PALEA outsourcing dispute and brings with it both advantages and disadvantages. Although not conventional, participant observation in which the researcher is also a player in the events is a valid form of research. Precisely such a method was used by McAlevey (2012) in her critical evaluation of union organizing in America during the early 2000s on the basis of her 10-year hands-on experience as labor organizer.

### **Genesis of Outsourcing Row**

The start of the PAL-PALEA dispute can be traced back to 2009. A Labor-Management Consultative Council (LMCC) meeting between representatives of PAL and PALEA on August 26, 2009 had an utterly

surprising and very controversial agenda—an announcement by management of its plan to spin-off or outsource a large number of departments. PAL cited company losses as the reason for the outsourcing scheme.

The LMCC was formed in the aftermath of the PALEA strike in 1998 that ended in the 10-year suspension of collective bargaining negotiations in exchange for board seats for union representatives. Since PALEA was not able to bargain, the LMCC was the only venue for it to raise workplace issues. But the union had no leverage within the LMCC to push its demands. Thus, employees received wage increases for only a few years during the course of the 10-year suspension on the sole discretion of PAL management.

In the LMCC meeting, PAL declared that it will spin-off its departments on Information Technology, Human Resources, Benefits, Legal, Medical, Airport Services, Catering, Reservations, Ticket Offices, and Revenue Accounting, among others. The plan was eventually leaked to the group of Gerardo Rivera, who were opposed to the then incumbent PALEA leadership. Rivera and his group also comprised the PM members among PALEA.

Later PAL President Jaime Bautista formally notified PALEA of its proposal to spin-off the Airport Services and Catering Departments effective November 15, 2009. The two departments had the largest number of employees in comparison to the other departments earlier announced to also be outsourced. Moreover, PALEA's most active members hailed from these two departments. At the height of PALEA's strength during the 1980s and 1990s, unionists from these two departments and the Maintenance and Engineering (M&E) Department were the backbones of paralyzing strikes. But the M&E was the first to be outsourced in 2001 with the approval of PALEA officers then led by union president Alex Barrientos. Spinning off catering and airport services—which included ground handling and passenger services—would gut PALEA and leave it a mere shell or a ghost of its former self.

The first mass action opposing the planned mass retrenchment and outsourcing scheme was held on September 14, 2009. It was a lunch break noise barrage outside the PAL In-Flight Center (IFC).

After the first mass action of PAL employees against outsourcing led by Rivera's group, PALEA's old leadership under Edgardo Oredina started to assert its prerogatives. The union reminded management that the one-year extension of the CBA suspension was due to expire. The 10-year CBA suspension ended in 2008 but the Oredina-led PALEA agreed to a one-year extension. With no resolution on the issue of outsourcing, PALEA filed a case for union busting on September 22, 2009. The National Conciliation and Mediation Board convened meetings between September 25 and October 5, 2009 without success.

Even as the controversy over outsourcing raged in September 2009, PAL offered early retirement to its managers and administrative employees. The early retirement program was made optional and voluntary to the rank-and-file employees. The outsourcing plan was deferred to April 2010.

Seeing no headway in conciliation talks, PALEA finally withdrew its request for mediation and filed a notice of strike (NOS) on January 28, 2010. PALEA once more cited union busting as basis for the NOS.

### **Opposition to Outsourcing Begins**

The brewing labor dispute with PALEA's threat of a strike finally made it to the mass media. But beyond the threat of a strike, PALEA's old leadership made no effort to prepare and mobilize members for a real fight.

Instead it was the group of Rivera, then without official positions in the union, who were busy preparing PALEA's members for a determined struggle. They solicited support and agitated for action among PAL employees through a signature campaign to oppose the scheme. The next mass action was a motorcade protest on September 22, 2009. Compared to the lunch break protest, the motorcade was superior in terms of the number of participants, the scale of the activity and the creativity of the form. Yet the protest and opposition to the outsourcing plan was still in the opening stages. Even more protests and more militant actions were to come. But the seeds of a movement against contractualization at the flag carrier had been sown and it was the group of Rivera that nurtured it.

Rivera also took advantage of a unique opportunity to bring the PALEA struggle to the International Labour Organization (ILO). The ILO sent a High-Level Mission (HLM) to the Philippines to investigate claims of violations by the state of Conventions 87 and 98 on freedom of association and collective bargaining, respectively. While a complaint at the ILO could not stop the implementation of the outsourcing plan at PAL, PALEA's participation in the HLM forum was another arena to bring the plight and fight of the union to the attention of the broader public, the trade union movement and the government. The tactic of seeking the support of the allies, supporters, international organizations and the broad public was to be a signature of PALEA's fight. The combination of direct action like the lunch break protest and the motorcade, and other forms of activity, including solidarity from supporters, was being carefully laid down even in those early stages of PALEA's struggle.

In the ILO HLM forum, Rivera mentioned PAL's refusal to recognize the set of PALEA officers elected in the union elections of April 2002. Rivera won as PALEA president in that election together with a number of his colleagues but never sat as union officers. Using the pendency of a case that reached the Supreme Court (SC) and the reality of factionalism within the union, PAL management instead acknowledged another set of PALEA officers. Barrientos acted as holdover president for five years starting in 2000 after the acrimonious PALEA elections that year was declared a failure. The special elections called by the DOLE in 2002 was won by Rivera but was contested by Barrientos up to the SC. The latter will then be voted president in 2005 in a poll boycotted by other factions in PALEA.

Oredina then replaced Barrientos after the latter was allegedly impeached. However, Rivera clarified that there was no record anywhere in PALEA's organizational files of any impeachment process. It was these management-recognized PALEA officers that sat in LMCC meetings and occupied the PAL board seats reserved for the union. It was also these officers who in 2008, agreed to a one-year extension of the CBA suspension.



### **Rivera's Group Assumes Office and Leads the Fight**

With the outsourcing battle heating up, the incumbent PALEA leadership called for a union election from February 17 to 25, 2010. After much debate among Rivera's group, they finally agreed on the tactic of participation. Reinvigorated by the challenge of fighting the outsourcing scheme, Rivera and his group, running under the slate of Sulong PALEANS, campaigned feverishly nationwide.

The Sulong PALEANS team garnered a landslide win in the elections. The top three positions in the union were won by Rivera as President, Alnem Pretencio as Vice President and Ambrocio Palad as Secretary. Their slate also cornered 13 out of the 21-member union board. The Sulong PALEANS campaigned on a platform of defending job security and opposing the outsourcing plan. Their resounding win reflected the revival of the fighting mood among PAL employees.

A month after the elections, PALEA's new set of officers assumed their functions and hit the ground running to resist the threat of contractualization. Bautista formally told the union of the complete closure of several departments of the company and abolition of all affected regular positions by May 31, 2010. Though not exactly a bolt from the blue, the notice of closure still hit PALEA's officers hard with the reality that the fight was both "life and death" and "here and now." The 2,604 affected regular employees were sent notices of termination through registered mail. In response, PALEA commenced back-to-back protests on April 19 and 23, 2010.

### **A Midnight Decision**

Faced with a full-blown labor dispute at the national flag carrier, then DOLE Secretary Marianito Roque issued on April 23, 2010 an assumption of jurisdiction order (AJ). In the succeeding conciliation hearings, both PAL and PALEA agreed that the AJ issued by the DOLE suspended the effects of the notice of termination.

In early June 2010, then Acting Secretary of Labor Romeo Lagman released a decision stating that the closure of the catering, airport services and call center departments was a prerogative of management

and thus legal. The union denounced the decision of the Acting Secretary as a midnight decision since in just two weeks a new DOLE Secretary was due to be appointed by then incoming administration of Aquino. To highlight its disgust, around 300 members of PALEA conducted a two-hour protest rally in front of the DOLE office in Intramuros on June 22, 2010.

### **PALEA Engages Aquino**

The DOLE protest was immediately followed the next day by a bigger rally of around 600 PALEA members. Following earlier mass actions by other groups, PALEA trooped to the residence of President-elect Aquino at Times St., Quezon City. At the end of the rally, PALEA submitted a letter, accompanied by the case documents, asking for presidential intervention in the dispute and a policy review of contractualization.

PALEA then filed a Motion for Reconsideration (MR) to Lagman's decision on June 28, 2010. As has been its practice, the filing was accompanied by a protest action of some 300 union members. The active participation of members in the fight against contractualization was becoming the tradition of the union.

In its appeal, PALEA insisted that the planned retrenchment of regular rank-and-file employees who are union members, including union officers, constituted unfair labor practice, violated the CBA and DO 18-02, and was not necessitated by the company's financial situation. The union argued that PAL actually intended to replace regular positions with contractual workers with the ulterior motive of busting the union.

Prefiguring its model of combining legal actions with direct action, PALEA started on a lobbying campaign targeting potential allies and influential institutions. Institutions such as the Catholic Church, academe and Congress were involved. International allies like the International Transports Workers Federation were also tapped.

PAL and PALEA met in another conciliation meeting on August 20, 2010 convened by the newly appointed Labor Secretary Rosalinda Baldoz. Management declared its intention to wait for the resolution of the MR submitted by PALEA. The union urged the DOLE to continue

the conciliation proceedings. PALEA also demanded that PAL junk its outsourcing scheme.

The difference in position of the two parties reflected their contrasting strengths. The divergence in stance was not just in this particular instance but constituted a pattern all throughout the course of the dispute. On the one hand, PAL was apparently confident that government arbitration will result in a favorable decision. On the other hand, PALEA wanted conciliation since it could maximize union mobilization and solidarity from allies as leverage. Succeeding events revealed which of the two paradigms prevailed.

The next month, the union received from PAL the financial statement for 2009-2010 that showed the national flag carrier had recovered and posted a substantial income. PAL also produced the contracts with service providers Sky Kitchen and ePLDT Ventus. Curiously, the contract with the third service provider, Sky Logistics, was never submitted by PAL. Based on these documents, PALEA asked Secretary Baldoz to reverse the decision of the former acting Secretary Lagman. Specifically it demanded that the planned closure of the various PAL departments and mass retrenchment be declared illegal and that the company be found guilty of unfair labor practice.

### **A Halloween Massacre**

Secretary Baldoz was however not swayed by the arguments and facts presented by PALEA in its MR. On October 29, 2010 she decided against the Union and affirmed the earlier decision by acting Secretary Lagman. It only modified the earlier decision by providing for the grant of a “transition benefits package” which includes 125 percent separation pay and additional P50,000 gratuity pay.

PALEA and its labor movement supporters slammed Secretary Baldoz’s ruling as a “Halloween massacre.” In a protest at the DOLE, PALEA members laid makeshift crosses and coffins across from the DOLE Building.

In the wake of the decision, PAL managers started convincing union members to accept the outsourcing scheme. In response, PALEA filed

a strike notice with the DOLE for unfair labor practice. With the labor dispute escalating as a result of the decision, DOLE immediately called for another series of conciliation meetings.

Even as PALEA pursued all the avenues provided by the labor justice system, it continued apace with preparing for an inevitable showdown by consolidating the ranks of its membership and expanding its network of allies. The combination of legal and extra-legal forms of struggle was a notable mark of PALEA's model of pursuing its fight against contractualization.

Thus on November 8, 2010, a press conference of the biggest labor groups in the country expressed their support for PALEA and criticized the decision of Secretary Baldoz. The Trade Union Congress of the Philippines, Kilusang Mayo Uno and Alliance of Progressive Labor, all rivals in the labor movement, joined PALEA and a number of other labor organizations in the show of unity and solidarity. The importance of the event was reflected in a banner headline in the front page of the *Philippine Daily Inquirer* a few days later (Tubeza & Montecillo, 2011).

Interestingly, a unity statement was signed by some 16 organizations that attended the presscon. A line in the statement read "Ang laban ng PALEA ay laban ng lahat. Ang laban ng lahat ay laban kontra kontraktwalisasyon." (PALEA's fight is everyone's fight. The struggle against contractualization is everyone's fight). The slogan will be a rallying cry as the labor dispute unfolded and intensified.

### **Presidential Intervention**

With two Labor secretaries deciding adversely, PALEA was left with no option but to seek the involvement of Malacañang. The union filed a Petition for Presidential Intervention on November 12, 2010. The union raised the issue that the Labor Secretary committed grave error in the findings of facts and in the application of law.

After a few days, the Executive Secretary (ES) of the President, Paquito Ochoa Jr. met PALEA and its legal counsels. Nothing definite came out of the discussion and the encounter was exploratory in nature.

### **Brink of Strike 1.0**

As a show of force and unity, the labor groups' follow up to the press conference was a big mobilization. Numerous workers organizations came together for a "National Day of Action for Regular Jobs" on November 25, 2010 at Ayala Ave. in Makati.

All these efforts at broadening the fight came hand in hand with strengthening the will to struggle of PALEA's leadership and membership. Mass meetings were held with union members. Newsletters and leaflets were distributed. A Facebook group eponymously named "Sulong PALEANS!" was setup to facilitate information dissemination and discussion among members and even supporters. Slowly but surely, a sturdy scaffolding was built to advance PALEA's fight against contractualization as a trailblazer struggle of the union movement.

All through this period, PAL management continued talking to union members and encouraging them to accept the outsourcing plan. With preparations in earnest and worker discontent nearing boiling point, a strike vote was conducted on December 7, 2010. A solid 86 percent of the votes cast favored a strike against the outsourcing scheme.

Before the strike vote could be reported to the DOLE, the Office of the President (OP) issued an AJ. The presidential order instructed both management and the union to desist from undertaking any action that may aggravate the situation. So while the AJ prevented PALEA from pushing through with a strike against contractualization at PAL, it also temporarily stopped the implementation of the outsourcing that was authorized by the DOLE decision.

### **Struggle to Restart CBA Negotiations**

Rivera's group had effectively stopped the intended mass retrenchment and outsourcing scheme after almost a year of struggle. It was predicated on the use of a variety of forms of struggle and building a wide network of support on top of its members' solid determination to fight. Still PAL's contractualization plan was a clear and present danger that had the firm backing of the law as interpreted by the DOLE.

The labor dispute was again stalemated with neither PAL nor PALEA able to impose its will on the other. With the start of 2011, both sides were again at the negotiating table with Malacañang as conciliator-mediator this time around.

PAL and PALEA met for the umpteenth time on February 3, 2011 with presidential representatives. In the course of the discussion, PAL declared for the first time that financial condition is not the main reason but just one of the motives for the outsourcing plan. Additionally, the company argued that outsourcing was a global trend in the airline industry and that the program is within the scope of their management prerogative.

In retort, PALEA averred that the contentious issues can be discussed in collective bargaining negotiations. The union reminded management that the CBA has not been renegotiated for almost 13 years. Further that PALEA had already submitted its CBA proposal four months before in October 2010. Bautista insisted that management will only negotiate the CBA after the outsourcing program has been implemented. PALEA naturally dissented and demanded that bargaining talks must proceed at once.

Management did agree to submit PAL's unaudited quarterly financial report for the first and second quarters of fiscal year 2010-2011 to the OP and PALEA. The financial reports showed that PAL posted an income of US\$ 31.6M for the first quarter and US\$ 28.2M for the second quarter. The reports also revealed that in June 2010, PAL was able to pay its maturing financial obligation to its creditors amounting to US\$ 46.5M. Later PAL reported a US\$ 15.1M income for the third quarter that fiscal year.

### **Strike Vote on Refusal to Bargain**

In response to PALEA's letter requests for the commencement of CBA talks, the union finally received a letter dated February 16, 2011 from the PAL president stating that the CBA negotiations must be held in abeyance pending the resolution of the outsourcing row. The union viewed this as a refusal to bargain by management and thus it filed a NOS on March 7, 2011.

PAL and PALEA were back in conciliation, this time with the CBA negotiations as the touchstone issue. PAL stood pat on its stance that bargaining negotiations be held in abeyance since the OP still had to decide on the dispute over outsourcing. In contrast, the union maintained that the dispute involved in the NOS is separate and distinct from the issues now submitted to the OP. PALEA asserted that collective bargaining is a constitutionally guaranteed right of the workers and an obligation on the part of management. Based on this logic, the union averred that management is clearly refusing to bargain. Nothing was thus resolved in the conciliation.

Less than a week later, PAL declared its willingness to continue the CBA negotiations and to submit its counter-proposal. It did not mean however that PAL had conceded to PALEA's demand. PALEA asserted that outsourcing be subject to bargaining negotiations contrary to PAL's assertion. The union wanted to retain the CBA provisions on spin-off/outsourcing which was essential to the labor row. PALEA also stated that the pending issue is not resolved until PAL submits its counter-proposal. The union pushed the argument that bargaining talks can start and proceed independently without any pre-conditions.

Amidst the conciliation meetings and unrest among workers on both the outsourcing plan and CBA negotiations, PALEA held another strike vote on March 23, 2011. This time an even bigger number, 95 percent of ballots cast out of 70 percent of total members voting, gave the go signal for a work stoppage to push for CBA negotiations. A mere four percent voted no. As build up to the planned strike, PALEA members held a torch parade at the airport area to flex its muscles.

### **Brink of Strike 2.0**

The sun had not yet set on March 25, 2011 when PALEA heard from media outlets that the OP through Executive Secretary Ochoa, had issued an order on the outsourcing dispute. The OP order affirmed the decision of the DOLE in its entirety with only the amendment that the gratuity pay was increased from P50,000 to P100,000. While PALEA had not yet received an official copy of the OP decision, PAL had already released a statement welcoming and commending the President's order.

Three days after the OP decision came out, PAL indeed sent to PALEA its CBA counter-proposal. It was not a cause for celebration for PALEA members. PAL stated that the counter-proposal shall cover only workers remaining after the outsourcing of airport services, catering and call center reservations.

With the threat of a massive strike at the national flag carrier, DOLE was busy as a bee to conciliate the long-running dispute. Marathon mediation conferences were held starting March 29, 2011. On April 1, 2011 the conciliation meeting ended past the close of office hours without any compromise reached.

On the night of April 1, 2011, PALEA staged a massive prayer rally participated in by some 2,000 union members and various labor organizations. The rallyists marched around the various PAL offices at the airport area before being stopped by a police barricade at the intersection of the roads leading to Terminal 2 and Terminal 3 of the Ninoy Aquino International Airport. The prayer rally was an exhilarating expression of unity and solidarity for both PALEA members and supporters from various labor unions. The rallyists dispersed with high morale as the strike could start only hours away, during the early minutes of April 2, 2011.

However when PALEA officers went back to the union office, they were surprised by another AJ dated April 1, 2011 which certified the case for compulsory arbitration by the National Labor Relations Commission. PALEA did not push through with the strike as it would have meant an illegal work stoppage and it expected the full force of the law to be brought down on the union if it defied the AJ.

### **PALEA's Appeal Denied**

With PAL declaring a net yearly income of US\$ 72.5 million, PALEA once more petitioned the government in August 2011 to stop the outsourcing plan of management and order negotiations for a CBA. Aside from PAL's substantial income, PALEA also cited in its manifestation the 14 percent increase in total current asset, decrease in the company's total liabilities, 176 percent increase in equity among its shareholders, and even the growth of the flag carrier's fleet to 51 aircraft.



On August 11, 2011 the OP denied PALEA's motion for reconsideration for not raising new issues. The OP affirmed its earlier ruling allowing the layoff of 2,600 employees and their rehiring as contractual workers in third-party service providers.

The union slammed the ruling as "PNoy's fire-all-you-can policy" and "a second-rate trying-hard copycat of American industrial relations where giant money-making corporations can layoff at will." PALEA asserted that the decision overturned the provisions of the Labor Code and jurisprudence that serious financial losses are a necessary ground for retrenchment.

The only legal recourse left to PALEA was to bring the case to the Court of Appeals (CA). On August 26, 2011 PALEA filed a Petition for Certiorari. PALEA argued that the OP disregarded the evidence presented by the union in its findings of facts and in the application of law and jurisprudence.

With the legal mandate for the outsourcing program seemingly well covered, management invited the union to a dialogue on the implementation of the outsourcing plan. PALEA rejected the overture but averred that it is more than open to explore measures, except retrenchment, for PAL's growth. It once more offered that the outsourcing plan be subject to bargaining negotiations instead of being unilaterally imposed on employees.

Management then launched "town hall meetings" to inform employees about the mechanics of the outsourcing including the application process to the service providers. The union protested with members wearing black ribbons at work and mass actions in the streets to drum up support. PALEA asserted that the implementation of the outsourcing plan is premature since the OP ruling is not yet executory pending final resolution of the case by the courts.

### **September Protest at Airport**

PALEA's protests did not break PAL's resolve. Management personnel continued convincing union members to avail of the separation package and then apply for rehiring at the service providers. PALEA, in

response, publicly announced its intent to paralyze airport operations if the implementation of the outsourcing program was not stopped. PAL would then answer the threat with an assurance to the commuting public that flights will not be affected by any PALEA action.

In a warning to PAL against pushing through with the job outsourcing and mass lay-off, on September 16, 2011 PALEA staged a march of more than a thousand PAL employees plus hundreds of supporters from the labor and church groups. This was a build up for PALEA's airport protest.

The sit-down protest by union members inside airport premises on September 27, 2011 was an action of last resort as PALEA was pushed to the wall by PAL's intransigence and government's collaboration. Around dawn of that day, union members started the protest action by sitting down where they worked and pasting anti-outsourcing posters where passengers could see them. Once management was made aware that the protest was actually ongoing, frontline employees were decoded from their computers and could not use them anymore.

It was a stormy day in more ways than one. Typhoon Pedring ripped through Metro Manila and poured heavy rains all through the day. Even hundreds of PALEA supporters were drenched by Typhoon Pedring as they assembled near the airport to lend solidarity to the sit-down protest. But flights were cancelled not by an act of nature but by the protest of workers. Despite repeated assurances by PAL that airline passengers will not be affected by any PALEA protest, the company cancelled all flights that day until 6:00 pm. In the end some 172 international and domestic flights were affected just for that day. PAL would not resume normal operations until months after, belying its bravado that the outsourcing plan can be smoothly executed.

Around noon, DOLE representatives called on officers of PAL and PALEA for an urgent meeting at the vicinity of the airport. Yet, PAL President Bautista ignored the conciliation proceedings and instead handed down a memorandum to PALEA's representative. The memo stated that all employees in the outsourced departments are considered off duty starting 1:00 pm and will be severed from employment at the end of duty hours on September 30, 2011. PALEA considered this as a lock out by management.

In the afternoon, upon orders from PAL management, hundreds of airport police, aviation police and private security guards started forcibly and violently evicting protesting PALEA members from their work stations. As a result, some workers sustained injuries, a few even serious ones. The eviction ended what PALEA called its “Occupy Airport,” in reference to the “Occupy Wall Street” protest that transpired just a week earlier in the US.

PALEA members who were evicted from the airport and their supporters regrouped that night at the PAL IFC, just a few hundred meters from Terminal 2, and started building a makeshift picket line. The picket line would serve as PALEA's base of struggle for the next two years, although back then nobody expected the fight to last that long.

### **Class Struggle at the Airport**

In the immediate aftermath of the September 2011 sit-down protest at the airport, positions and opinions were polarized across classes, sectors, groups and institutions. Aligned against PALEA's protest was PAL which blamed the union for disrupting flights. It would take months after the contentious implementation of the outsourcing program before PAL's operation would return to any state of normalcy. President Aquino and then Department of Transportation and Communications Secretary Mar Roxas both threatened to sue PALEA for economic sabotage. Not surprisingly the country's business groups all pitched in with the line that outsourcing is a legitimate industry practice that is supposedly good for the economy and thus even to workers.

In contrast, the labor movement was united in support of PALEA. Progressive political groups, NGO's and the social action arm of the Catholic Church were vocal in their solidarity. Their collective voices were however drowned out by the hysteria of reaction against the sit-down protest.

Rivera opined that the protest action was a class struggle in its purest form. On one side of the barricade was the working class with its demand for regular jobs. And on the opposing side was the capitalist class and the state which supported it.

### **PALEA's Picketline as People's Camp**

September 30, 2011 was the last official workday for outsourced PALEA members—although none had been allowed back into the airport and other offices after the sit-down protest. That day, the union held a massive, thousands-strong rally in front of the picket line at PAL IFC. A barricade of police and firetrucks stood meters away, blocking the way to the airport itself.

While the sit-down protest may have had the biggest impact on PAL's operations, the big mobilization that day left a lasting impression on the participants as they could witness the collective power of coming together for a common cause. It lifted the morale of the thousands of laid off PAL employees. It strengthened the picket line which from then on would be the site of numerous solidarity actions and events, aside from serving as protest site for the retrenched PAL workers.

Many more mass actions, big and small, succeeded the massive September 30, 2011 rally. All were launched to sustain PALEA's campaign for the reinstatement of the retrenched workers and the scrapping of the outsourcing scheme.

A notable protest staged by PALEA in the early months of the picket line was the "Lakbay Hustisya" (Journey for Justice). In early November 2011, PALEA members and supporters marched for three days and two nights around Metro Manila, braving intermittent rains, to visit relevant offices and sites involved in the labor dispute. The "Lakbay Hustisya" was inspired by the march of Sumilao farmers who walked from Bukidnon to Malacañang in 2007 to press their demand for the return of their land from corporate giant San Miguel Corporation (SMC). The battle between Sumilao farmers and SMC was arguably the most high-profile agrarian dispute of that period. The Sumilao farmers march capped a successful campaign to put the contested land under agrarian reform (Niemelä, 2010). Thus, linking PALEA's struggle to the Sumilao farmers was a way to highlight the common demand for justice for the working poor.

In the two years that it stood, PALEA's picket line was transformed into a people's camp. Leaders and members of various unions and

groups frequented the picket line to lend support, both moral and logistical. Students from different colleges and universities came to integrate or discuss the fight of PALEA. Several institutions of the Catholic Church were active in assisting PALEA. Masses celebrated by Manila Auxiliary Bishop Broderick Pabillo and concerned priests were a constant activity at the picket line.

The picket line would even become a school for workers and other sectors. Seminars, fora and lectures were staged at the picket line. Education was not just formal or traditional. Concerts and performances by activist artists were frequently performed at the picket line. The picket line also hosted marchers from farmers, fishers and students who needed a resting place for the day or night.

Yet life at the picket line was not a picnic nor idyllic. It was, after all, a site of struggle and was set up to put pressure on a giant company to concede to workers' demands. There were several attempts to disperse and tear down the picket line. Before the end of the first month of the picket line, a Pasay sheriff aided by what PALEA called PAL goons tore down streamers and tents before being repulsed by members manning the camp. The most violent attempt came on October 29, 2011. It was a dawn attack by some 40 hired goons while most PALEA members at the picket line were still sleeping. The assault was repelled but not before four PALEA members were severely injured, some valuable items were stolen and tents torn down. One of the attackers was caught by PALEA members and later admitted that he was hired in return for P200.

While the violent attack did not actually succeed in tearing down the picket line, PAL was able to turn around the tables on PALEA with an expensive PR campaign involving paid ads in major broadsheets to paint the picket line as an infringement on property rights and PALEA members as trouble-makers. Since the picket line was setup, PALEA had been able to effectively stop PAL from operating the IFC for its in-flight catering needs and as a staging area for flight crew. In the wake of the negative PR barrage, PALEA had to relent and allow the free ingress and egress of PAL trucks, vehicles and personnel to and from the IFC. Only then could PAL trucks painted over with Sky Kitchen logos be able to supply the airline's in-flight needs instead of packed lunches from

fastfood joints being served at flights. Little by little, flight operations would regain normalcy with the use of the PAL IFC.

The irony and contradiction of alleged independent third-party service providers unable to operate without the use of PAL premises and equipment was not lost on PALEA. However, it hardly mattered, if at all, to government and even the media.

### **San Miguel Buys Into PAL**

By the start of 2012, PAL operations finally returned to a state of normalcy. Yet from October to December of 2011, it registered a pre-tax loss of P 1.45 billion. Thus, in February 2012, when media began reporting on rumors of Tan selling PAL to SMC, the airline was described as loss-making.

By April, the deal had been consummated with SMC acquiring 49 percent of the national flag carrier. Management changed hands as SMC took control. SMC president Ramon S. Ang said that among the priorities he will attend to was resolving labor relations at the airline (Lectura, 2012). PALEA sent a delegation of members who owned PAL shares to attend the annual stockholders meeting in September 2012. When asked by these PALEA members, Ang, then the new PAL President, declared that he is committed to a "humane resolution of the dispute."

The management change in April 2012 opened a window for talks to restart between PAL and PALEA. Still it would take several agonizing months before talks began in September. In that period, PALEA and its supporters kept up the pressure with protest actions and activities. The first "Global Day of Action" in solidarity with PALEA transpired in September 2012. The union also had to defend itself as members were imperiled with arrest. First, 39 members were threatened with arrest over the violent attack on the picket line in October 2011. Two members would eventually be arrested but later released. Then later some 300 more were impleaded in a case for sabotage due to the September sit-down protest.

### **Settlement Agreement**

While talks were ongoing between SMC-led PAL and PALEA, the union combined this with mass actions directed at the Ang-owned conglomerate. PALEA and its supporters held four rallies at SMC's headquarters at Ortigas between November and December in 2012. The difference with previous actions was that PALEA did not lambast Ang like Tan. In concert with local protests, international solidarity was ratcheted up. The second "Global Day of Action" for PALEA was held on December 12 that year.

It would take more than a year from the start of negotiations before an agreement was struck in November 2013. Negotiations frequently stalled on the demand for reinstatement.

Finally on November 14, 2013, a settlement deal was forged. The two parties were able to agree on a "retire and rehire" scheme. PALEA members who were retrenched but had resisted the outsourcing plan and refused to accept separation would be retired but then rehired as regular workers.

The separation package spelled out in the OP decision of 2011 was retained but increased. Instead of 125 percent separation pay, it was enlarged to 200 percent. The gratuity pay of P 100,000 was expanded to P 150,000. But more than the improved separation offer, the crucial component of the amicable settlement was the re-employment of the approximately 600 PALEA members who fought outsourcing. The PALEA 600 shall be the priority for hiring in vacant positions within the company following a fair process of re-employment. In case that a PALEA member cannot be accommodated in PAL, he or she will be hired as a regular employee in other SMC companies.

Before the deal was formally signed, the draft agreement was discussed on November 8, 2013 by some 550 PALEA members out of the 600 affected who assembled at the picket line. At the end of the meeting, they voted to ratify the draft agreement negotiated by PALEA officers.

### **Tan group back at PAL**

The settlement agreement was implemented except for the provision on re-employment. From January to February 2014, the PALEA 600 individually submitted applications for rehiring in PAL. After which, the company's HR Department conducted interviews of the applicants. Later in conciliation meetings, PAL would assert that none of the PALEA 600 had qualified for re-employment since there were no vacant positions for them. For months, PALEA continued negotiating with PAL on the full implementation of the deal.

In the course of this, the Tan group bought back PAL completely in September 2014. With the Tan group back at the helm, the chance for implementing the re-employment provision dimmed even more. PALEA communicated with PAL for the implementation of the settlement agreement and the commencement of CBA negotiations. There was no response from the Tan-led management.

Worse, in 2015, PAL outsourced workers in the so-called outlying stations thereby laying off 117 PALEA members working in provincial airports. PALEA filed a notice of strike in response. But conciliation once more led to nowhere.

### **Return of union factionalism**

By 2015, the five-year term of the union leadership under Rivera had lapsed and another union election was due. In the 2015 elections, Rivera and his group again run under the Sulong PALEANS name and trounced the slate of Oredina. However, the latter contested the victory of the former on the argument that the PALEA 600, including Rivera, were no longer legitimate voters since they had already been separated. Over the course of more than a year, the election protest went through the process of complaints and appeals until the Bureau of Labor Relations finally nullified the 2015 election and ordered the conduct of another.

Thus in 2017, another election was held which the Rivera group boycotted. Without any competition, Oredina's group coasted to victory. Now it was time for Rivera's group to petition the DOLE



to nullify the 2017 election. Once more, the case went through the dispute resolution process until in February 2019 another election was ordered and conducted.

Oredina secured a victory in that election but the Rivera group filed a complaint for irregularities in the conduct of the union election. But despite the pendency of the case, PAL management recognized the Oredina-led group and concluded a CBA as per news reports (Mercurio, 2019). However, informants from the Rivera group aver that there were no actual negotiations for a new CBA and instead what was signed was a two-page memorandum of agreement providing for a status quo in the last contract which dates back to 1998, resolution of grievances through the LMCC and wage increases for the next five years.

### **Duterte and the promise to end endo**

A glimmer of hope appeared for PALEA with the election of Duterte as president. As a candidate in the 2016 polls, he famously promised to abolish contractualization. Just before the election campaign, then Mayor Duterte also met PALEA officers in November 2015 in Davao and expressed favorable opinions.

PALEA sought the DOLE's intercession for the implementation of the settlement agreement of 2013. They found an ally in militant labor leader Joel Maglunsod, who was appointed as DOLE undersecretary for labor relations and special concerns. PALEA once more mobilized members in pickets at the DOLE and at times new Labor Secretary Silvestre Bello and Maglunsod would engage in dialogues. However, in comparison to the peak of the PALEA struggle in 2010 and 2011, these mobilizations were much smaller since only a hundred or so members participated. Many of the PALEA 600 had found alternative jobs to sustain themselves through the long years of resistance. Also the solidarity movement, both local and abroad, had waned because of the reduced scale of PALEA's struggle. Even Nagkaisa had become busy with the broader fight against endo. Still, even as it pursued its own fight against PAL, PALEA would be active in the renewed anti-contractualization campaign to challenge the Duterte administration to make good on its endo promise.

From June to November 2016, DOLE called conciliation meetings between PAL and PALEA to resolve the row over the settlement agreement. But nothing was resolved as PAL stood pat on its contention that it had complied with the agreement by processing the applications of the PALEA 600 who however could not be accepted for lack of vacancies.

With conciliation unsuccessful, PALEA requested for a labor inspection of PAL under the Special Assessment or Visit of Establishments (SAVE) program. SAVE was instituted in 2014 and was the instrument availed of by the PLDT union in its fight to regularize some 7,000 agency workers. Thus in 2017, DOLE would inspect both PAL and PAL Express and all of its contractors for compliance with labor standards, occupational safety and most importantly for provisions of DO 174 on labor-only contracting. Despite protests by PAL, PALEA representatives accompanied DOLE inspectors in accordance with DO 183 allowing the participation of deputized representatives from labor groups.

In September 2018, DOLE rendered a decision that labor-only contracting existed and ordered the regularization of more than 2,000 employees in 18 agencies used by PAL and nine contractors employed by PAL Express. Among these agencies were Sky Logistics, Sky Kitchen, Macroasia, Excellent Workers Multi-Purpose Cooperative and even contractors for security and K9 services. Management immediately appealed the decision and at the time of writing, the case remains pending at the Office of the Labor Secretary.

## **Conclusion**

It is clear from a review of the events surrounding PALEA's fight against contractualization from 2009 to 2019 that the workers' struggle went through one complete cycle of revival then decline of militancy. The union passed through a long period of hiatus after the defeat of the 1998 strike. But the pent-up grievances over the CBA suspension and the threat of contractualization led to the revival of militancy and union renewal. On the backs of the surge of the fighting mood of PAL employees and the strength of the solidarity movement for PALEA, a partial victory was achieved in the form of the settlement agreement. However, the fight fell short of securing the key demand for re-

employment of the PALEA 600 that would have meant reinvigoration of the union as a force within the company. That crucial shortcoming was a factor in the demoralization of PALEA members inside the company. And this led, from 2015 to 2019, to contested elections and factionalism, which also plagued the union after the 1998 defeat.

The Marxist insight that the fighting mood of workers is the wellspring from which labor unions draw their strength is undoubtedly shown in the experience of PALEA. But the militancy of workers is conditioned by the outcomes of the actions, reactions and interactions of the other actors within the industrial relations field, principally the employer and the state, and secondarily by other players like solidarity movements. In the case of PALEA's fight, there were key institutional barriers that prevented total victory, namely the intransigence of PAL which is owned by one of the richest Filipinos and the pro-business stance of the state, especially with regard to labor flexibility. The fighting mood of workers ebbs and flows. It revives on the basis of unresolved grievances and correct tactics but defeats led to the decline of militancy and the rise of factional struggles.

This study highlighted the need for urgent action by the government on the demand for regulating contractualization. This is necessary not just to stem the tide of rising disputes and strikes but as a step towards achieving inclusive growth and social justice. The discipline and practice of industrial relations was founded on the need to respond to the so-called Labor Problem of the late 1800's and early 1900's (Kaufman, 2004). Thus, for Kaufman (2007), the fundamental tenet of industrial relations was to democratize and humanize the employment relationship. This is reflected in the Constitutional mandate for social justice and full protection for labor. However, the disconnect between principles and policy, and their implementation and enforcement is in stark relief with the problem of *endo*. It is high time to close this gap. If the present administration has already betrayed its promise to "*end endo*," then it falls on the shoulders of a new government to be elected in the coming 2022 elections to review the labor problem of contractualization and render decisive action.

Further, it is recommended that the present study be revisited by another researcher who is an outsider to the dispute. While the author is confident of the integrity of the data, the objectivity of the

indicators used and the validity of participant observation as a method of research, it is nonetheless sensible for the topic to be analyzed further and by a disinterested observer. The study relied on participant observation as a method and so its analysis and conclusions are subject to the problem of the researcher becoming a native. Thus, the need to be validated or contested by studies of other researchers using different methods of study and analysis. Certeza's (2016) case study of PALEA is already such an attempt. It would be best for more researchers to examine PALEA's experience even if from a different perspective and set of objectives.

It also behooves other researchers to compare and contrast PALEA's fight with the struggle of workers in PLDT, NutriAsia, Philip Morris Fortune Tobacco and others. There must be key similarities and crucial differences in these working-class struggles. Likewise, another angle of study connected to the PAL-PALEA dispute is the resolution of the controversy over endo. President Duterte's stance on contractualization also underwent a complete cycle with his veto of the security of tenure bill definitively putting a nail in the coffin to his promise to end endo. Undoubtedly any resolution to the problem of endo rests not just on legal grounds but more so on the class struggle between employers and workers.

PALEA's struggle against outsourcing epitomizes what is called social movement unionism or what McAlevey (2012) defined as "whole-worker organizing." In this paradigm, unions frame their fight as going beyond the confines of the enterprise to encompass issues affecting the broader mass of workers. On this basis, unions are able to garner allies within and without the labor movement, both in the county and abroad, and so doing increase their leverage and chances of winning. The slogan "Ang laban ng PALEA ay laban ng lahat" (PALEA's fight is everyone's fight) precisely captured the spirit of social movement unionism. Unions embroiled in local fights can and should utilize the tenets of social movement unionism and innovate further on the basis of Philippine realities. The long period of union decline can be arrested but only by deploying new creative tactics that are able to achieve an accumulation of victories so that the fighting mood of the working class revives.

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