Precarious Work in the Philippine Public Sector: Nuances and Prospects for Reform

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The study is an attempt to contribute to the dearth of literature on the nuances of public policy governing job contracting in the Philippine public sector and how it maintained the practice through the job-order and contract-of-service (JO/COS) scheme, which employs around 28% of workers without security of tenure and social protection benefits. The study analyzed provisions in civil service, procurement, budgeting and taxation laws and recent policy responses to widespread job contracting in the public sector. Data from key informant interviews with officials from the Philippine Civil Service Commission (CSC) and other government agencies, as well as interviews and focus group discussions with JO/COS workers, served to validate primary data and provide deeper insight into the issues and challenges faced by the JO/COS workers. Results of thematic analysis revealed that certain provisions in laws and policies governing JO/COS schemes make this work arrangement precarious and insecure by reducing work arrangements into contracts, emphasizing the absence of standard employment relations, and giving little to nil emphasis on social protection. Consequently, personal experiences of selected JO/COS workers interviewed in the study confirm adverse impacts of job contracting in the public sector highlighted in existing literature. The article recommends strategies to improve the welfare of JO/COS workers in government. It highlights the need for collective support for these workers and, ultimately, the constitutional mandate of the state to provide decent and secure work across all sectors.

Keywords**:** *public sector employment, precarious work, contractual work, labor protection*

Public sector work is expected to be decent and secure. However, in the last 30 years, austerity-driven administrative reforms and the marketization of public services have radically changed the nature of labor and employment in government. In the Philippines, one of the major issues brought to the fore by executive officials, policymakers, and interest groups is the widespread practice of job contracting. While it has gained academic and policy interest fairly recently, job contracting is not a new phenomenon in the Philippines, and it has often been a point of contention among various stakeholder groups in the labor and employment sector (Ofreneo, 2013; Cristobal & Resurreccion, 2014; Paqueo & Orbeta, 2016).

The public sector is no exception to this problem. In the first half of 2019, temporary workers, particularly those employed under contracts of service (COS) and job orders (JO), make up more than 669,347, roughly 28% of around 2.4 million workers in government (CSC, 2019a; CSC, 2019b). This figure may presumably be higher and is expected to rise in the coming years, as the undocumented number of workers hired under third-party agencies contracted by the government increases. These workers are exempted from the civil service laws, rules, and regulations. Consequently, their services are not credited as government service and they are not entitled to benefits enjoyed by those who hold regular plantilla positions. However, while they are expected to perform support functions, most of them actually perform technical and administrative functions, which are considered core functions of government agencies. The Philippine Civil Service Commission (CSC) recognizes this perpetual violation of the civil service rules. Nevertheless, despite various issuances governing JO and COS workers, lack of security of tenure and social protection remains a major concern.

Research Problem

Little is known about how public policy maintained the practice of job contracting in the Philippine public sector. This study is an attempt to contribute to the field by analyzing certain provisions in civil service, procurement, budgeting and taxation laws that make job contracting in government precarious and insecure. The article identifies gaps in these laws and recent policy responses to widespread job contracting in government. Finally, based on the analyses of laws and policies, the paper offers possible strategies to improve the welfare of JO/COS workers in government.

Methodology

Primary data from the government and interest groups, as well as literature from related studies, were reviewed and analyzed to obtain a general understanding of job contracting in government. Civil service, procurement, budgeting, and taxation laws and proposed responses to address job contracting in government and ensure the welfare of JO/COS workers were also reviewed. Key informant interviews with officials from the CSC and other key government agencies were conducted to validate literature and data review. Individual interviews and focus group discussions with JO/COS and agency-hired workers and representatives of public sector unions and other interest groups were also conducted to gain a deeper insight into the issues and challenges faced by JO/COS workers. Thematic analysis of data from desk review, interviews, and focus group discussions was done to determine gaps and possible areas for amendment in public policy.

Review of Related Literature

Market-oriented administrative reforms began in the late 1970s as a result of a paradigm shift that challenged the role and capacity of the state in promoting development. The emergence of theories from new institutional and behavioral economics and the growing discontent among stakeholder groups over the nature and impacts of public policy found greater leverage in wider external pressures, such as economic and fiscal crises and the rapid development of information technology (Carroll et al., 2019). In light of these developments, multilateral institutions, such as the World Bank and the International Monetary Fund, began proposing free market reforms and introduced policy-based lending to developing countries in need of economic and development assistance (Agarwal, 2018). The quest for efficiency and austerity in delivering public services prompted governments in these countries to look to the market as an alternative mechanism and to draw solutions to public sector problems from the private sector (Larbi, 1999). In the UK and the US, similar strategies were applied to stabilize public funds and downsize the bureaucracy (Larbi, 1999; Glassner, 2010; Mori, 2020). Reforms based on the new public management (NPM) paradigm put premium on financial discipline, which entailed cutting public sector spending and improving cost efficiency in the use of government resources. These reforms also allowed greater administrative and fiscal decentralization, introduced market competition in public service delivery, and promoted performance-based management practices (Hood, 1991; Larbi, 1999; Mori, 2020).

Privatization and marketization in the public sector consequently changed the nature and size of public sector employment. In the past, employment relations in the public sector approximated that of a model or good employer, which encouraged collective bargaining, greater employee participation, and trade union membership (Bach, 2016). NPM-based reforms overturned this image of the public sector in both developing and industrialized economies in the 1970s. For instance, in the UK, Conservative governments implemented policies that privatized state industries, allowed the outsourcing of public service functions, and cut down public expenditures. Corby and White (1999) summarized the impacts of these policies on UK public services: ambiguities in organizational boundaries between public and private sectors; decentralization; growth of flexible labor; increased individualism veered away from collective labor laws and towards the more individualized employment relations; and the decline of public service values. In particular, the reforms narrowed down public sector employment and undermined employment regulations at the national level, allowing individual agencies, local governments, and contractors greater discretion in determining employment terms and conditions (Mori, 2017; Mori, 2020). Public sector workers in agencies delivering key social services bore the brunt of these policies. Studies on job outsourcing in the healthcare and prison management sectors in Britain observed a decline in salaries and

wages, narrowed scope of collective bargaining and trade union membership, ambiguities in employment relations, and the lack of job security associated with redundancies and transfers to private subcontractors (Grimshaw et al., 2017; Mori, 2020). In Northern Ireland, increasing reliance on contractual employment in government led to the rise of insecure work in education, health, and social work sectors (Wilson, 2018). Studies on privatization of social services in some US cities likewise highlight adverse impacts of privatization on public sector employment: reduction of employee benefits, layoffs, work intensification, deskilling of employees due to greater managerial prerogative, and the prevalence of contracts over in-house expertise (Bradbury & Waechter, 2009; Abramovitz & Zelnick, 2015). On the other hand, positive effects of job contracting in the public sector include increase in intrinsic and extrinsic motivation among outsourced employees, which is attributed to greater focus on performance-based incentives, and alleviation of stress on regular employees (Bozeman, 2007; Vrangbæk et al., 2015; Alonso & Andrews, 2016).

Similar impacts on public sector employment were observed in studies on public personnel management in the Philippines. Cariño (1977), Richter (1980) and Varela (1995) revealed that in the 1970s and 1980s, government agencies adopted job contracting, particularly for clerical tasks, to circumvent civil service laws. Consequently, clerical staff made up the largest number of casual and contractual workers at that time (Richter, 1980). Padilla (1995) coined the term "permanent casuals" to refer to employees working in government for more than a decade under temporary contracts. Related studies on the plight of project-based workers working for government programs revealed instances of perceived job insecurity, low pay, low morale, lack of motivation, and quick turnovers due to unclear employment relations associated with job contracting (Ibay, 1984; Varela, 1984; Trono, 1992). Gaffud's (1994) study on public sector unions found that contractual employees faced intimidation and threats of termination for participating in union activities. Moreover, recent studies found adverse effects of job contracting on contractual workers' industrial citizenship and their inclusion in collective bargaining (Cainglet et al., 2012; Villena, 2014). Meanwhile, job contracting was found to positive spillover effects for employees working in technical fields, such as state university/college faculty members, who take on consultancy work for extra income, usually in violation of civil service regulations (Padilla, 1995).

These studies confirm what Vrangbæk et al. (2015) considered negative effects of job contracting, particularly in liberal economies with deregulated labor markets and weaker trade unions. A number of authors, in fact, referred to job contracting as a form of precarious work, characterized by the lack or absence of labor security and protection afforded by standard employment relations (Standing, 2011; Rubery et al., 2018; Wilson, 2018).

Standing (2011) lists seven forms of labor security that are lacking in precarious work: (a) labor market security, (b) employment security, (c) job security, (d) work security, (e) skill reproduction security, (f) income security,and (g) representation security (Table 1). Much of the discourse on labor security focuses on employment security, i.e., protection from arbitrary or unjust hiring and firing practices. However, Standing (2011) urged a renewed focus towards job security, which entails career advancement, and income security. The latter is not so much a function of level of salaries/wages received, as it is that of the provision of collective support and guaranteed state benefits, and availing of personal benefits to augment money income (Standing, 2011).

Adverse effects of job contracting may be more nuanced, depending on the sector/task environment and the regulatory environment. Negative impacts are found to be less prevalent in regulated economies with a tradition for stronger unions in the private sector, and positive effects of job contracting are prevalent in the technical sector, where there is greater focus on skills-to-job matching (Grimshaw et al., 2015; Vrangbæk et al., 2015; Rubery et al., 2018).

In particular, labor market factors play a significant role in shaping job contracting arrangements in the public sector: differences in pay; trade union membership and scope of collective bargaining in the private and public sectors; legal status of public and private sector employees; and the nature of employment protection and minimum wage rules (Grimshaw et al., 2015). Segmentation effects of job contracting within the government workforce were especially evident in a number of studies (Grimshaw et al., 2015; Mori, 2017; Rubery et al., 2018).

Table 1
Forms of Labor Security

Form of Security	Description
a. Labor market security	Adequate income-earning opportunities; at the macro-level, this is epitomized by a government commitment to full employment.
b. Employment security	Protection against arbitrary dismissal, regulations on hiring and firing, imposition of costs on employers for failing to adhere to rules, etc.
c. Job security	Ability and opportunity to retain a niche in employment, plus barriers to skill dilution, and opportunities for upward mobility in terms of status and income.
d. Work security	Protection against accidents and illness at work, through, for example, safety and health regulations, limits on working time, unsociable hours, night work for women, as well as compensation for mishaps
e. Skill reproduction security	Opportunity to gain skills through apprenticeships, employment training, etc. as well as opportunity to make use of competencies.

f. Income security	Assurance of an adequate stable income, protected through, for example, minimum wage machinery, wage indexation, comprehensive social security, progressive taxation to reduce inequality and to supplement low incomes.
g. Representation security	Possessing a collective voice in the labor market, through, for example, independent trade unions, with a right to strike.

Source: Standing (2011, p. 10)

Other studies put emphasis on the "privileged-insider" construct, where direct employment relations have been misconstrued as exclusive only to a privileged minority. In adopting this view, the public sector alienates non-regular workers from their regular counterparts by providing all-too generous benefits and incentives for regular employees, on one hand, and narrowing the scope of collective bargaining, depriving the non-regular workers of the chance to participate, on the other hand (Vosko, 2010; Standing, 2011; Rubery et al., 2018).

Reforms in these areas may help strengthen labor protection given to contractual workers in the public sector and, in the long run, integrate them into the regular workforce. Grimshaw et al. (2015) and Mori (2017) recommended increasing the statutory minimum wage, providing effective employment protection for non-regular workers, strengthening collective organization in both public and private sectors, and introducing social clauses in contracts and procurement. On the other hand, Rubery et al. (2018), suggested that employment regulations should focus on integrating non-regular workers. This entails not only strengthening and extending the coverage of social protection schemes, but also making the transition of temporary workers into regular employees easier and more flexible (Rubery et al., 2018). In any case, the studies reviewed in this area argued for the shared responsibility of the state, the employers, unions, and other key stakeholders and interest groups in enforcing labor market rules and employer regulations (Grimshaw et al., 2015; Mori, 2017; Rubery et al., 2018).

Public Sector Employment in the Philippines

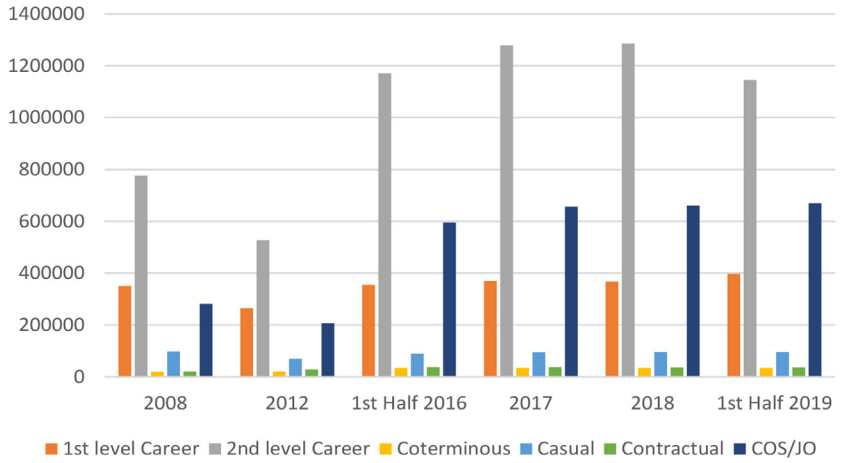
Government employment in the Philippines is classified into two types, depending on the nature of entry/appointment and that of tenure. First is the career service, which is further subdivided into first level (clerical, custodial, trades and crafts, and other manual jobs), second level (professional, technical and scientific work), and the career executive level (mid-level managers in the bureaucracy). Entry into career service entails merit and fitness, which is determined by competitive examinations. Work in this type of employment is characterized by security of tenure and career advancement opportunities. Another type of employment is the non-career service, which is rendered by contractual, casual, and coterminous personnel.[1] Their appointment is based on criteria other than merit and fitness, and their tenure is limited to a certain period (Sec. 6-9, Executive Order 292).

The inventory of government personnel by the Philippine Civil Service Commission (CSC) in 2019 estimates more than 2.4 million workers in the public sector. This number makes up 9.1% of the total employment in the Philippines (42.4 million workers, per 2019 Philippine Statistics Authority estimate). This figure includes workers who render services for the government under "contracts of service" (COS) and "job orders" (JOs), which, owing to the absence of employer-employee relationship inherent in career and non-career service appointments, are temporary contracts that do not guarantee tenure and benefits to the worker.[2]

Figure 1 shows the distribution of career, non-career, and JO/COS workers from 2008 until 2019. Despite certain inconsistencies in data (see note on Figure 1), the graph clearly indicates a surge in the number of JO/COS workers between 2012 and the first half of 2016. The rate of increase from then on relatively plateaued. Parallel to the increase in number of JO/COS workers between 2018 and the first half of 2019 is a slight decrease in the number of career service personnel. Moreover, the number of JO/COS workers consistently exceeds that of non-career service personnel and even that of first-level career service employees.

Figure 1

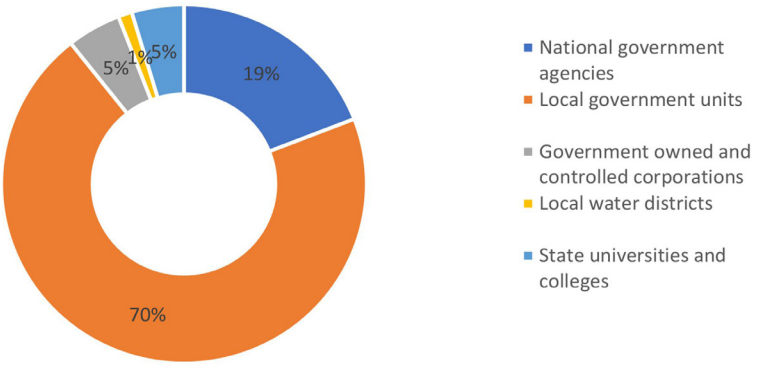
Distribution of Career, Non-Career and JO/COS Workers in Government, Various Years



Note: No data on the number of JO and COS workers were reported in 2010, and no data on the number of COS workers was reported in 2012. Meanwhile, only 64% (2,334) of the targeted 3,663 government agencies were actually covered by the CSC government personnel study in 2012.

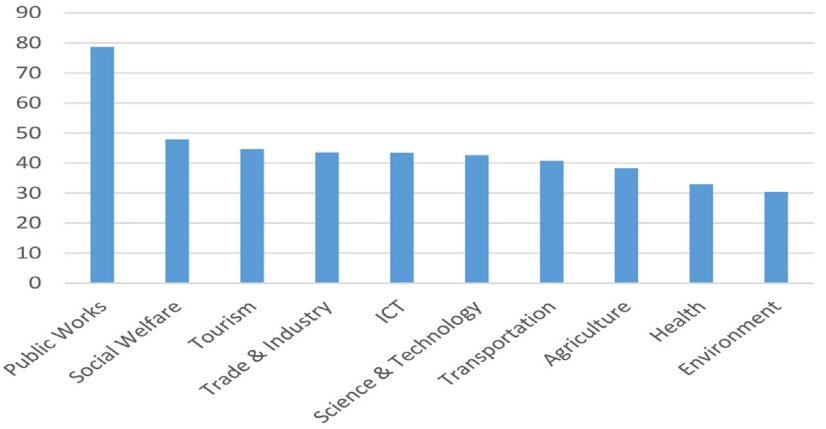
Source: CSC (2008, 2010, 2012, 2016, 2017a, 2017b, 2018b, 2018c, 2019a, 2019b)

Figure 2
Distribution of JO/COS Workers, per Type of Government Agency, 31 May 2019



Source: CSC (2019a, 2019b)

Figure 3
Ten National Government Agencies with the Highest Percentage of JO/COS Workers, 31 May 2019



Source: CSC (2019a, 2019b)

Most (70%) of the JO/COS workers are employed in local government units (LGUs). Around 19% work in the national government agencies (NGAs) (Figure 2). Some of the NGAs with the highest percentage of JO/COS workers are those that provide key public services: Department of Works and Highways (78% of

the total personnel); Department of Social Welfare and Development (48%); Department of Transportation (40%); and Department of Health (33%) (Figure 3).

Laws and Policies Governing JO/COS Work Arrangements

As laid down by the *1987 Constitution*, the state is expected to ensure labor security for workers in both public and private sectors. Article XIII, Section 3 guarantees full labor protection, including security of tenure, living wage, and humane working conditions, and ensures equal opportunities for full employment for workers. A similar provision, Article II, Section 18, stresses the duty of the state "to protect their rights and promote their welfare." Article IXB, Section 2 (2) guarantees protection of public sector employees against illegal or unjust termination or dismissal. This mandate is further upheld for public sector employees by the Republic Act 6656, which protects the employees' security of tenure. The same law provides that employees may only be removed or dismissed when, among other valid causes, positions are abolished or merged due to redundancies or exigencies of service. RA 6656 puts premium on the mandate of the state to respect the right of the workers to the due process of law.

Civil service laws cover employees appointed by all agencies and instrumentalities of the government, including government-owned or controlled corporations (GOCCs). As mentioned earlier, public sector employees may be appointed based on merit and fitness, determined by competitive examinations (career service), or by other bases, such as those occupying confidential, policy-determining, or technical positions (non-career service). Both career and non-career service employees are entitled to government-mandated salaries and benefits (Executive Order 292, Sec. 7-9, Chapter 2, Subtitle A, Title 1). Executive Order 292 or the *Administrative Code* of 1987 serves as the guiding framework for public sector employment and civil service. The *Omnibus Rules on Appointments and Other Human Resource Actions* (ORAOHRA CSC, 2018a), lays down specific guidelines based on the general provisions in the EO 292.

On the other hand, government agencies are authorized to enter into contracts with other agencies, non-government organizations, the private sector, and individuals, for functions and services that are not typically performed by regular government employees. Both the EO 292 and the ORAOHRA allow the government to engage with JO/COS workers for short-term, "non-essential" services. CSC Memorandum Circular (MC) No. 40, s. 1998, a version of the ORAOHRA issued by the CSC, specified JO/COS work arrangements. The memorandum circular defined contract of service as "lump sum work of services such as janitorial, security, or consultancy services" (Rule XI, Sec. 2[a]) and job order as "piece work or intermittent job of short duration not exceeding six

months on a daily basis" (Rule XI, Sec. 2[b]). MC 40, s. 1998 also clarified that JO/COS workers are not covered by civil service rules and that these workers are not entitled to mandatory benefits given to government employees.

Republic Act 9184, the *Government Procurement Reform Act*, enacted in 2003, governs procurement of, among others, services rendered by contractual workers. It defines the services rendered by JO/COS workers as either *consulting services* or *non-personal or contractual services*. The former refers to "services for infrastructure projects and other types of projects or activities of the government requiring adequate external technical and professional expertise that are beyond the capability and/or capacity of the government to undertake" (Sec. 5[f]). Advisory services, feasibility studies, design, construction supervision, and management and related services are included in this definition (Sec. 5[f]). However, the work undertaken by JO/COS workers can also be treated as "non-personal or contractual services," subsumed under the category of "goods." These goods are actually defined by law as that which "may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind" (Sec. 5[h]). Implementing rules and regulations of RA 9184 provide that these services be procured through competitive bidding, which prioritizes the lowest calculated (in terms of economic cost) and most responsive bid. Competitive bidding may be done on an individual basis, usually in the case of consultants, or on a collective basis, in the case of third-party agencies vying for contracts with the government.

Procurement rules and regulations mandate the contracting government agency to consider other factors such as the nature of contract, amount of resources, internal governance, training and compliance to labor and social laws (Government Procurement Policy Board, Appendix 23, Sec. 1, p. 304). Performance criteria for contractors include quality of services, time management, personnel management, contract administration and management, and provision of regular progress reports (p. 306). Technical parameters such as stability, resources, security and housekeeping plan, recruitment and selection, and completeness of uniforms, among other materials, are also considered (Appendix 23-A, p. 307). Contractors also need to adhere to mandated increases in minimum daily wage (Appendix 23, Sec. 5.2.1., p. 305). Some provisions in the procurement guidelines state that contracts of individual and institutional contractors providing general support services may be extended on the basis of their being "essential, indispensable, or necessary to support the operations" of the contracting government agency or, alternatively, in view of the "welfare of its personnel" (Appendix 24, Sec. 3, p. 308).

As stipulated in the CSC guidelines governing JO/COS workers, the salaries, wages and other forms of compensation of these workers are charged to

maintenance and other operating expenses (MOOE) of the contracting government agency (CSC, 2002). These items are thus lumped along with "expenses for supplies and materials, transportation and travel, utilities, and repairs," among others (Department of Budget and Management [DBM], 2015, p. 712). The enrolment of the JO/COS workers to the social protection programs, such as Social Security System (SSS), national health insurance program (PhilHealth), and housing loan program (PAG-IBIG Fund) is voluntary, since these programs view JO/COS workers as self-employed. In contrast, salaries and benefits of government employees—permanent, temporary, contractual and casual—are charged to personnel services (PS), which are predetermined through the salary standardization laws revised periodically in Congress (p. 716).

Taxation laws characterize JO/COS workers as own-account workers beyond the ambit of standard employment relations. Gleaning from the Republic Act 8424, the *Tax Reform Act* of 1997, the Bureau of Internal Revenue (BIR) treats workers as either employed, i.e., bound to standard employment relations, or self-employed, own-account workers. JO/COS workers are classified under the second category. Their work is treated as a "sale of service," similar to a business (Bureau of Internal Revenue, 2010, Sec. 108). The tax compliance of JO/COS workers are bound to these rules and regulations. In the Revenue Memorandum Circular No. 130-2016, JO/COS workers rendering professional services earning more than PHP1.92 million in payments annually from the government are required to pay value-added tax (VAT), while the rest are required to pay percentage tax equal to three percent of their earnings. However, on top of the VAT or percentage tax, workers rendering professional services are also required to pay withholding tax equal to ten percent or 15% of their earnings, per diems and allowances (BIR, 2016). Under the recently passed Republic Act 10963 (*TRAIN Law*), employees earning not more than PHP250,000 annually are exempt from income tax (Sec. 24a). Whether or not this policy applies to JO/COS workers is not clear.

Policy Responses to Job Contracting in the Philippine Public Sector

As presented earlier in this article, government reports show an unprecedented increase in the number of JO/COS workers in the public sector, which indicate the growing dependence of the state on these workers to perform regular functions and fill in permanent job needs despite the lack of social protection and job security. Through the years, the Philippine government, particularly the CSC, issued guidelines that aim to articulate and address this problem.

Contractual work was first articulated in 1974 through the Presidential Decree 442 or the *Labor Code*. The rationale then was to regulate overseas

work, which had started gaining ground at that time (Endriga, 1995). However, because the *Labor Code* covered other fields in the private sector, the definition of contractual employment applied across the board. The law allowed the practice of job contracting, provided that employers/agencies followed certain conditions regarding the nature of business, capital, nature of work, and the welfare of the workers.

It is presumed that contractual work also picked up speed in the public sector in that same period. One of the early policies adopted by the CSC that governed non-regular employees, Memorandum Circular No. 8, s. 1979, guided the approval of temporary, provisional, and substitute appointments particularly for public school teachers.[3]

By the time the Memorandum Circular No. 5, s. 1985 was issued, the CSC had already acknowledged the surge in the number of contractual workers in government and their involvement in regular agency functions. The Commission mandated the review and regulation of hiring contractual workers and consultants. It defined, at least for the first time in paper, contractual work in the public sector—private consultancies, management consultancy firms, and other work areas requiring special or technical skills, subject to a special contract for up to a year. At that time, engagements with contractual workers were regulated to a certain extent by the CSC. Job contracting was only limited to "highly skilled scientific and technical personnel" and only up to two part-time contracts with government agencies were allowed per person (Sec. 2). Exceptional cases include: (a) absence of regular employees with the needed expertise; (b) when hiring regular employees is "virtually impossible"; and (c) lack of personnel due to regular employees taking on "very urgent" tasks (Sec. 3). It is not clear in the memorandum how hiring can be "virtually impossible" or what specific tasks are "very urgent."

The CSC first took upon itself the task of reviewing, confirming, and approving the renewal of service contracts and monitoring their execution (CSC, 1990a). The Commission reaffirmed this role in another issuance, delegating authority to its regional and field offices (CSC, 1990b). However, a few years later, the Commission later revoked its policy on monitoring service contracts, transferring this role to the Commission on Audit (COA) (CSC, 1993a).

It was only in 2002, through the Memorandum Circular No. 17, that the CSC took back its initial task. Again, the main rationale was to address the growing dependence on JO/COS work arrangements, which, in the Commission's view, are used to circumvent civil service laws. MC No. 17 prohibits government agencies from requiring JO/COS workers, through their contracts, to perform regular agency functions and report to the office within the agency's prescribed office hours (Sec. 3). The memorandum circular also set the term of JO workers

to a maximum of six months, but it did not specify the length of term for COS workers.

However, another definitive provision introduced in the MC No. 17 is the "institutional contract of service" scheme. Similar to subcontracting/third-party agency hiring in the private sector, this work arrangement allows the government agency to enter into a service contract with a third-party agency that will, in turn, provide personnel to carry out short-term work related to the functions of the government office. Instead of being employees of the government, the workers are considered employees of the contracted agency (Sec. 1[b]) (CSC, 2002).

Building on these guidelines is the Joint Circular No. 1, s. 2017 issued by the CSC, COA and DBM, which reintroduces the institutional COS scheme with additional provisions on social protection benefits and employer regulations. The joint circular puts janitorial, security, driving, data encoding, equipment and grounds maintenance under "support services" (Sec. 5.5), which can be subjected to service contracts. Monitoring of these contracts is once again transferred to the COA.

The guidelines also specify compensation mechanisms for JO/COS workers. The COS workers are to be paid salaries based on prevailing market rates and in accordance with the procurement laws. JO workers are set to enjoy a 20% premium on top of the daily wage pegged at the same rate as that of their regular counterparts. The premium pay presumably covers the social protection contributions to be voluntarily shouldered by the JO/COS workers. However, for individual JO/COS workers remains voluntary (Sec. 8). Meanwhile, the guidelines provide more stringent conditions for institutional contractors, particularly in providing for social protection benefits of their workers (Sec. 6.1.1). The requirements aim to ensure that the subcontracted workers will be compensated justly and given appropriate benefits by their contractor.

Transitory provisions in the 2017 guidelines initially stated that the contracts of JO/COS workers will only be renewed until 31 December 2018, after which the engaging their services will be based on the said guidelines (Sec. 11). While the guidelines provide that current JO/COS workers should be prioritized in hiring, they do not guarantee that all these workers will be rehired. Thus, the guidelines may likely affect JO/COS workers who are technically not eligible for government positions and those who do not opt to be subsumed under institutional contractors.

The CSC withheld the implementation of the 2017 guidelines pending further stakeholder consultations. These consultations culminated in another joint circular issued by the CSC, COA and DBM in 2018 (Joint Circular No. 1, s. 2018). The latest joint circular made two key amendments to the 2017 guidelines:

the extension of deadline of renewal of service contracts under the 2002 guidelines to 31 December 2020 (Sec. 11.1), and the extension of 20% premium payments to individual COS workers (Sec. 11.5). The amended guidelines also mandate government agencies to conduct job audit and review of organizational structure to ensure that regular employees carry out only regular functions and that casual and contractual employees (i.e., with casual or contractual appointments) work only on temporary projects (Sec. 11.4).

Table 2 provides a brief history of CSC issuances that address the problems of contractual work. Most of the issuances focus on two policy problems: the use of the JO/COS work arrangements to circumvent civil service laws, resulting in overlaps in work responsibilities between JO/COS workers and regular employees; and the lack of social protection benefits and security of tenure associated with the JO/COS scheme. So far, policy response to the prevalence of job contracting in the public sector has been directed towards addressing the first problem, by attempting to clarify the legal status between the regular government employee and the JO/COS worker. It was only recently that policy responses were also geared towards providing social protection benefits for these workers.

Table 2
CSC Issuances that Address Job Contracting in the Philippine Public Sector

Year	CSC Issuance	Salient Provisions
1979	Memorandum Circular No. 8	• Approval by the CSC of temporary, provisional, and substitute appointments for public school teachers
1985	Memorandum Circular No. 5	• Review and regulation by the CSC of hiring contractual workers and consultants • Defined contractual work as that carried out by private consultancy, management consultancy firms, and other work areas requiring special/technical skills • Special contracts limited to one year; maximum two part-time contracts with the government per person at a time • Exceptions include lack of expertise and/or of regular employees available for the task
1990	Memorandum Circular No. 26	• Consultancy contracts to be submitted to the CSC for approval
	Memorandum Circular No. 54	• Delegation of authority to monitor contractual appointments to the CSC regional and field offices
1993	Memorandum Circular No. 27	• Clarification: consultancy work not credited as government service, limited only to advisory services • Transferred the contract monitoring role to the COA
	Memorandum Circular No. 38	• Clarification: JO/COS workers are not covered by civil service rules, not governed by standard employment relations, not entitled to government-mandated benefits given to regular employees • Differentiated between JO and COS workers in terms of nature of work (piecework and lump sum work)
1998	Memorandum Circular No. 40	

2002	Memorandum Circular No. 17	• Monitoring of contracts transferred back to the CSC • Prohibition against imposing regular agency functions and regular office hours on JO/COS workers • Introduced institutional COS as a mode of job contracting
2017	CSC-COA-DBM Joint Circular No. 1	• Conditions for institutional contractors, related to provision of social protection benefits • Redifferentiation between individual COS work (consulting, learning services provision, and technical assistance); JO work (piecework, intermittent and emergency jobs, manual tasks), and work under institutional COS (support services) • Payment for services for individual COS workers (salaries based on prevailing market rates, procurement laws) and JO workers (daily wage at the same rate as regular employees plus 20% premium) • Monitoring of contracts transferred back to the COA • Allowing renewal of individual COS within term of the head of the contracting government agency • Individual JO/COS workers given priority in hiring regular employees • Renewal of existing service contracts and job orders under 2002 guidelines until 31 December 2018, after which the 2017 guidelines apply
2018	CSC-COA-DBM Joint Circular No. 1	• Extension of 20% premium payments to individual COS workers • Extension of renewal of existing service contracts and job orders under 2002 guidelines to 31 December 2020, after which the 2017 guidelines apply

Source: CSC (1979, 1985, 1990a, 1990b, 1991, 1993a, 1993b, 1998, 2002, 2017, 2018)

Issues Faced by JO/COS Workers

Maria[4] works at a government research institution in Southern Tagalog, Philippines. At least once a month, her day begins early at dawn, before the sun rises over the Taal Lake. Maria and her companions board a small *banca* (boat) in the middle of the lake to gather samples of *tawilis* (*Sardinella* sp.), a species of fish endemic only to the lake. After grappling with nets and laboratory instruments amid sometimes rough waters, the group brings back the samples to the laboratory, where Maria carefully processes and analyzes the samples under the microscope. After manually taking note of the data, she encodes it on the computer and starts to write the technical report, a regular output that serves as an aid in policymaking. In some cases, Maria's day ends in the office, where she works overtime to make sure all samples are processed and analyzed immediately, before they expire. At times, when these samples did expire, they would put out to the lake again to gather fresh *tawilis* samples (personal communication, 22 October 2018).

An aquaculturist for more than five years now, Maria had learned to be industrious and dedicated to her work, to the extent of sacrificing a few hours

or days of rest and sleep to get her job done. But, as a COS worker, Maria has been serving the government for half a decade without the benefit of social protection and security of tenure afforded to regular government employees. In 2017, her first year at work, the office reduced the salaries of the staff, most of whom are JO/COS workers and do not meet civil service eligibility requirements despite long years of service. Considered an "own-account worker," Maria does not receive hazard pay. From time to time, she personally pays for her social security contributions as a voluntary member (personal communication, 22 October 2018).

Irregularities in tax deductions and payments are a perpetual problem for both Anne,[5] a COS worker at a GOCC, and Joy,[6] a COS worker at an NGA. Anne[5] laments that the Bureau of Internal Revenue (BIR) looks at workers as either employees or as businesses: "How [does the BIR] define employees? [They] work for eight hours, [those] with benefits including 13th month pay. In our case, on top of a ten-percent withholding tax applied to professionals and self-employed individuals, we are imposed with a three-percent percentage tax, which applies to businesses, because the BIR sees us as a business." (personal communication, 4 June 2018). Meanwhile, in filing for income tax, Joy related that she once had to pay for an accountant to compute and file her income tax returns on her behalf. "Being swamped with work, I simply did not have the time to file these returns by myself," she shared. "I can't afford to take days off from my work to do these things."

Jun,[7] a former JO worker at one of the offices in a public university, tried and failed several times to pass the competitive civil service examinations required to get a civil service eligibility. Eventually, he became a contractual employee, entitled to state-mandated salary and state benefits. However, Jun's salary, now equivalent to the lowest salary grade for government employees, was less than the daily wage he received when he was a JO worker. "In fact, when I became a contractual employee, I received 477 pesos per day," he remarked. "This amount is actually below minimum wage[8] (personal communication, 4 June 2018)." Moreover, due to delays in the release of their appointment, Jun and his fellow workers were compelled to return the wage differential or overpay for the months they were paid as JO workers when they were supposed to be paid as contractual employees.

The president of the Social Welfare Employees Association of the Philippines (SWEAP), an employees' association in the Department of Social Welfare and Development (DSWD), admitted in a group discussion that JO/COS workers were usually exempted from the collective negotiation agreements (CNAs), which culminated in increases in benefits and incentives. "We fought to include the JO and COS workers in the CNAs so they can receive benefits. One time, the DSWD Secretary allowed it, even though it was prohibited under the law" (personal communication, 3 August 2018).

Maria, Anne, Joy, and Jun are just a few of the more than half a million JO/COS workers trying to get by with precarious work in the public sector. Among the challenges they face are the lack of monetary and social protection benefits, security of tenure, and clear accountability and employment relationships. Regularization, which is mainly determined by competitive examinations and/or availability of positions, is likewise difficult for JO/COS workers, whose contracts are instead constantly renewed, indicating the indispensability of their services. Health and safety concerns are mainly borne by the JO/COS workers, who voluntarily remit their contributions to health insurance and social security and do not typically receive hazard pay. Finally, these workers are usually beyond the scope of collective bargaining for higher benefits and incentives.

The JO/COS workers' legal status is mainly determined on a case-to-case basis, by jurisprudences and court interpretations. One of the cases that tackled this problem is that which involved the Metropolitan Waterworks and Sewerage System (MWSS), a GOCC, and the terminated collectors engaged through COS (*Lopez et al. v. MWSS*, 2005). In this case, the "four-fold test,"[9] which was usually applied in labor dispute cases in the private sector, was then used to determine whether or not the terminated COS workers are MWSS employees. The Court, citing the constitutional mandate of the state to grant full protection to all forms of labor, ruled in favor of the terminated workers. Typically, however, the ambiguity of the JO/COS workers' legal status makes it difficult to address their grievances. According to the chair of the Pro-Labor Legal Assistance Center, the difficulty lies in the lack of jurisdiction of both the CSC and the National Labor Relations Commission (NLRC). He said, "It might be difficult to handle these cases because both the CSC and NLRC claim that the cases are beyond their jurisdiction. The workers do not really know where to go" (personal communication, 12 July 2018).

The imminent implementation of the Joint Circular No. 1, s. 2017, as amended in 2018, is seen by the CSC as a way to address these challenges. The CSC claims that job contracting under the institutional COS scheme resolves the rampant circumvention of civil service laws, absence of employment relations, and the lack of social protection benefits associated with individual JO/COS work arrangement. "Subsuming the JO and COS workers under manpower agencies is the only way we can give them social protection benefits," remarked one CSC official (personal communication, 3 August 2018). The SWEAP agrees with this view, yet claiming that it was a temporary reprieve. The president said, "as much as we dislike agency hiring in government, we need to use the policy to give the workers immediate justice, to help them obtain minimum social protection benefits" (personal communication, 3 August 2018).

The experience of agency-hired workers in a public university somehow also reflects weaknesses in the institutional COS scheme. One of the main concerns they pointed out is the tendency of contractors to shirk their responsibility of

providing guaranteed benefits and social protection for the workers. In a focus group discussion, one of the janitors shared that wage deductions supposedly directed towards voluntary social protection contributions do not actually reflect in their contribution records. "[The contractor's] records show they are regularly remitting the contributions… but when we inquire with the SSS[10], the contributions are incomplete." Another janitor lamented, "even if we notice these irregularities, we blindly sign the pay slip because we may be fired from work if we complain."

The group also highlighted the imposition of cash bond,[11] which is deducted from the wages of the agency-hired workers every month. An agency-hired security guard recounted that this cash bond served as "security deposit" that would be returned to them when they leave their job. She laments the lack of accountability over this practice. "[This] agency is operating for almost four years now," she recalled, "and yet the cash bond being deducted from our wages is still with them. How will we hold the agency accountable?"

Anomalies in the procurement of institutional contractors revealed by some of the respondents of the study were generally attributed to the cost-efficiency criteria associated with competitive bidding. One of these practices entailed recruiting more workers than what the contracting government agency can allow in the service contract. Here, the contractor reserves a pool of probationary workers, called "relievers," which it does not declare during bidding in an attempt to bring down the cost. Consequently, some relievers render services without pay. Another practice involves facilitating bids of preferred contractors, even those that do not meet the procurement guidelines. "Even agencies that do not remit SSS and PhilHealth contributions at all win the bid," one former janitor recounted. These are just some of the manifestations of opportunistic behavior by the contractors that violate the labor laws and negatively affect the subcontracted workers.

The Ecumenical Institute for Labor Education and Research (EILER) opined that the institutional COS creates even deeper problems for the subcontracted workers. "When [subcontracting] policies do this, they also advance the principle of 'non-core jobs'," its executive director remarked. "The notion of non-core jobs is quite difficult to accept because any form of work is an important component of any good or service being produced. For example, how can you really consider maintenance service a non-core function? How will your tools and facilities work without maintenance?"

Meanwhile, a representative from the Confederation for Unity, Recognition and Advancement of Government Employees (COURAGE) lamented the lack of a definite set of standards for work in the public and private sectors. He remarked that, while there is a blanket policy—i.e., the constitutional mandate of full labor

protection for workers across sectors—common implementing guidelines need to be drawn up, for instance, in the matters of wage setting, labor management relations, and the right to strike, among others.

Gaps in Protection Against Precarious Work

The constitutional mandate of the state supposedly guarantees full labor protection and ensures equal opportunities for full employment for workers in both private and public sectors. However, current laws and policies on civil service, budgeting, procurement and taxation make JO/COS work arrangements precarious in three ways: (a) reducing JO/COS work arrangements into mere contracts, (b) emphasizing the absence of standard employment relations, and (c) giving little to nil emphasis on social protection. JO/COS workers are treated as own-account workers by civil service and taxation policies. Their services are considered non-personal and are subject to competitive bidding per procurement laws. Their wages and salaries are charged to maintenance and operating expenses, lumped with material and incidental expenses of the government agency. The lack of collective work-based identity associated with informal, own-account work makes it difficult for the JO/COS workers to determine and negotiate terms of employment, wages/salaries, and social protection benefits. Because the work of JO/COS workers are determined through individual contracts, their concerns are usually decided through jurisprudence, as in the case of the terminated MWSS collectors engaged through contracts of service (*Lopez et al. v. MWSS*, 2005). In spite of this treatment of JO/COS workers by public policy, the number of JO/COS workers continues to rise over the years. The continuous renewal of contracts of JO/COS workers is an indication of the indispensability of these workers in performing important functions in their respective government offices. On the other hand, it also indicates that these workers are entitled to the right to security of tenure, by virtue of their long years of actual service to the government.

At the outset, the institutional COS scheme outlined in the CSC-COA-DBM JC No. 1, s. 2017 offers a promising option for JO/COS workers in terms of providing standard employment relations and social protection benefits. Institutional COS affords the workers the benefit of standard employment relations that are absent in JO/COS work arrangements. Their legal status may then be determined through the Labor Code and other applicable labor laws, rather than mere jurisprudences, where matters are addressed on a case-to-case basis. The scheme may also provide greater employment security for subcontracted workers by providing stringent rules and regulations for institutional contractors, passing on to them, as direct employers, the burden of providing social protection benefits and security of tenure.

However, the institutional COS scheme fails to address the problems associated with multi-layered accountabilities shared by the worker, the contractor, and the contracting government agency. As such, it may be difficult for the government office to account for the performance of the subcontracted workers, who are supposedly only directly accountable to the contractor for their work. In addition, as seen in the experience of the university agency-hired workers, unfair labor practices on part of the institutional contractors usually occur amid fears of retaliation, harassment, and termination on the part of the workers. The joint circular does not afford collective mechanisms for voice and accountability in this regard.

Prospects for Change

It is hoped that precarious work gaps linked to JO/COS work arrangements, backed by the personal experiences of JO/COS workers who participated in the study, will provide a window for tackling public policies that uphold the right to full labor protection and self-determination by workers across various sectors. The state needs to honor its constitutional mandate and, on a broader scale, international commitments to the principle of full employment and labor protection. Collective support for the welfare and concerns of the JO/COS workers may help them develop industrial citizenship and work-based identity and recognize the value of their services to the government.

With the concurrence by the Philippine Senate to ratify the Labor Relations (Public Service) Convention of the International Labor Organization (ILO), or the ILO Convention 151, in 2017, it is hoped that the public sector would affirm the guaranteed rights to JO/COS workers. ILO Convention 151 specifically promotes the workers' rights to participate in determining the terms of employment and settling disputes related to these matters through collective mechanisms, and it declares "complete independence" of public sector unions from public authorities (*Labor Relations* [Public Service] *Convention*, 1978, Articles 4-8).

The trajectory of policies governing public sector work in the Philippines is seen to continue the practice of job contracting in the sector. Meanwhile, policy proposals to downsize the bureaucracy threatens to affect the welfare of public sector workers. House Bill 5707, filed in Congress in May 2017, seeks to "minimize, if not eliminate redundancies, overlaps and duplication" of government functions (p. 2). A forecast by the DBM estimated that around 16% of the 1.7 million government positions, equivalent to around 255,000 employees, will be affected by rightsizing. The government claims it will channel the savings derived from labor costs towards infrastructure (de la Cruz, 2017). The JO/COS workers, who directly provide services for the government, are not exempted from these possible adverse impacts of rightsizing.

The Philippine Congress acknowledges the precariousness of JO/COS scheme and other temporary work arrangements in government and is seeking to institutionalize solutions through a law. Several measures have been proposed, particularly in the 17th and 18th Congresses (2016-2019), to address security of tenure and social protection for temporary workers in government (Table 3). Most of the legislative proposals aimed to grant security of tenure to government employees with temporary (i.e., casual or contractual) appointments. Some of them, notably House Bills 6406, 7415, and 248, explicitly highlighted this concern of JO/COS workers.

A number of legislative proposals in the aforementioned Congresses looked to work experience as a determinant of merit and fitness and civil service eligibility. Proposals laid out in HB 7415 and 248 resemble the private sector practice of regularization as indicated in the *Labor Code*. They suggest granting civil service eligibility and regular appointments to JO/COS workers after six months of service to the government. Meanwhile, only one measure, HB 6892, proposed solely the provision of government-mandated benefits and incentives to JO/COS workers.

While these attempts to ease the barriers to the regularization of JO/COS and other temporary workers in government and to grant them security of tenure are altogether a promising development in addressing the adverse impacts of job contracting in the public sector, whether it is politically and administratively feasible remains yet to be seen. As one of the officials of the CSC remarked, the Commission will not be ready to support these proposals because they undermine the principles of merit and fitness and violate budget and position classification rules. "If a [worker] will be considered regular automatically, by virtue of length of service… in what position will he be placed? Where will the government get money to pay the salaries? What if there is no appropriation for that?" he asked (personal communication, 23 August 2018). The SWEAP also acknowledged the possible ambiguities and arbitrariness that lie in automatic regularization. "How can you say that, after six months, the employee can be considered civil service eligible?" asked the SWEAP President (personal communication, 23 August 2018).

Nevertheless, in anticipating the passage of legislative proposals concerning JO/COS workers, it would also be good to explore the role of public sector unions and employee associations as avenues for collective support and strengthening the sense of identity and belongingness of JO/COS workers. This is apparent, for instance, in the efforts of the SWEAP and other unions to negotiate benefits and incentives for JO/COS workers, who are technically outside the ambit of civil service and labor laws. The Philippine government needs to honor its commitment to the ILO Convention 151 by implementing policies anchored on this agreement. On the other hand, the unions need to work more closely with the government

to widen the scope of collective bargaining to JO/COS workers. It may be high time to revisit and amend the Executive Order 180, s. 1987, which governs and regulates public sector union membership and activities. Possible amendments to the EO 180 may include greater representation by public sector unions in the Public Sector Labor Management Council (PSLMC). So far, the PSLMC is currently only headed by CSC, DOLE, Department of Finance, Department of Justice and the DBM (Sec. 15). Independence of public sector unions from government control also needs to be emphasized.

Table 3
Promoting the Right to Security of Tenure for Temporary Workers in the Philippine Government

Proposed Bill	Year	Problems addressed	Key provisions
HB 1125 HB 2287 HB 2988 HB 4544 HB 4871 HB 4950 HB 5094	2016 2016 2016 2016 2017 2017 2017	• Lack of security of tenure associated with temporary work arrangements • Repetitive renewal of service contracts of temporary workers • Civil service examinations as sole determinant of eligibility for regularization, forgoing other qualifications such as work experience	• Security of tenure for workers with casual and contractual appointments in government in NGAs and LGUs for at least five or ten years, respectively • Work experience as substitute for competitive examinations in determining civil service eligibility (equivalency) • Work rendered by temporary workers deemed "necessary and desirable" and thus protected from abolition/ rationalization
HB 6892	2017	• Lack of government-mandated benefits for JO/COS workers	• Provision of social protection benefits and monetary incentives received by regular employees in government
HB 7415 HB 248	2018 2019	• Lack of security of tenure associated with temporary work arrangements • Repetitive renewal of service contracts of JO/COS workers • Civil service examinations as sole determinant of eligibility for regularization, forgoing other qualifications such as work experience	• Granting civil service eligibility and security of tenure for JO/COS workers rendering service in government for at least six months
SB 283 SB 1184 SB 1193	2016 2016 2016	• Lack of security of tenure associated with temporary work arrangements	• Security of tenure for temporary workers rendering services for at least three years • Work rendered by temporary workers deemed "necessary and desirable" and thus protected from abolition/ rationalization

Source: House of Representatives (17th Congress, various years; 18th Congress, 2019).

If the government decides to push through with the implementation of institutional COS through the Joint Circular No. 1, s. 2017 as amended, it needs to maintain higher standards for the contractors in terms of providing labor protection for the subcontracted workers. On a broader scale, the government needs to consider legislating minimum labor standards applicable to all sectors, including employees and own-account workers. The growing policy discourse tackling informal work may provide a good starting point for widening the scope of labor and employment regulations towards this aim.

Ultimately, the state and the workers can and should derive from the long history of the Philippine labor movement to critically examine and collectively seek reforms in the public sector. More importantly, the Philippine government, being an enforcer of labor laws in the private sector, and, in itself, a provider of supposedly decent, secure work in the public sector, needs to keep up and set the stage for reforms.

Conclusion

This study attempts to contribute to the existing literature on labor policy and civil service in the Philippines by looking at provisions in laws and other policy responses that perpetuate job contracting in the Philippine public sector and make this type of work arrangement precarious. Findings from review of pertinent documents and interviews with some of the key actors reveal that the transition from standard to contract-based employment relations in Philippine government has led to the commodification of public sector labor, where JO/COS workers are depersonalized and dissociated from their workplaces and regular counterparts. The lack of standard employment relations makes it difficult for the JO/COS workers to assert their right to decent work and social protection. Despite these consequences, the number of JO/COS workers continues to rise, owing to the limits and conditions posed by budgeting and civil service laws regarding the hiring and compensation of government workers. The recent policy response to job contracting, i.e., institutional COS, has yet to clarify accountability relationships shared by the worker, the contractor, and the government agency.

Future policy responses need to address possible integration of the JO/COS workers into the regular government workforce by relaxing or removing entry barriers and by rationalizing the government workforce according to mandate of agencies. While technical and administrative feasibility of this proposed response is being explored, a more immediate response, i.e., extending social protection to JO/COS workers, can also be considered. The institutional COS guidelines need to highlight the responsibilities of the government agency and the institutional contractor to its workers. Collective bargaining and trade union membership rights may also be extended to individual JO/COS workers to allow them to

determine and negotiate social protection benefits. In the final analysis, these policies should lead towards guaranteed full employment and labor protection in the public sector.

Recommendations

Based on the review and analysis of pertinent laws and policies governing job contracting in the public sector and the ensuing JO/COS work arrangements, this study recommends a number of strategies that may aid existing and future policies in keeping with the constitutional mandate to provide full employment and labor protection for workers in the public sector:

- Periodic job audit in government agencies – job audits need to put emphasis on the compliance of these government agencies to existing labor and civil service rules. The audit should also help determine whether the proportion of regular employees vis-à-vis JO/COS workers is in accordance with the mandate of the government agency. This is particularly applicable for agencies directly delivering public services.

- Amendments to the JC No. 1, s. 2017 (as amended by JC No. 1, s. 2018) to strengthen social protection of workers under institutional COS scheme – should the government opt to implement institutional COS, the guidelines need to explicitly mandate the institutional contractors to enroll their workers in the government-mandated social security programs (e.g., SSS, PhilHealth and Pag-IBIG) and to regularly report remittances and contributions. Penalties for failure to comply to these guidelines should also be expressly stated in the guidelines. The joint circular may also need to require or incentivize institutional contractors that allow trade union membership. That the workers under institutional COS are within the ambit of the *Labor Code* and other applicable laws should also be specified.

- Widening the scope of collective bargaining to include JO/COS workers – the principles laid out in the ILO Convention No. 151 may help public sector unions in formulating collective negotiation agreements (CNAs) with greater freedom and flexibility and protect them from undue influence from government authorities in crafting these agreements. By doing so, they will be more capable of negotiating for higher wages, incentives and benefits for the JO/COS workers.

- Laddered approach to regularization – House Bills 7415 (17th Congress) and 248 (18th Congress) proposed the regularization of JO/COS workers after six months of service to the government. Alternatively, a more feasible option would be to adopt a more gradual, laddered approach to regularization, that is, first granting the JO/COS workers casual/contractual appointments

that ensure social protection and direct employment relations with the government, giving them opportunities to apply for regular positions later on. This strategy will entail government support for career advancement opportunities for the JO/COS workers.

• Government service credits – the government may also establish a system of granting government service credits for JO/COS workers that could be distinct from that of regular government employees. This would help acknowledge the contribution of JO/COS workers to public service and facilitate their regularization.

• "Amnesty" law – proposed initiatives in this area may include establishing work experience as a measure of merit and fitness for JO/COS workers who have worked for several years, thereby granting them amnesty, for a certain period of time. Implementing these mechanisms may help, albeit temporarily, in the upward mobility and regularization of JO/COS workers.

Endnotes

[1] Contractual government appointments are given to project-based employees, or those whose skills are not available in the government agency they are assigned to work. Appointment is only limited to a year, renewable only until completion of project or work, subject to performance of the employee and availability of funds. Casual appointments are given to employees hired directly by the government to provide "essential and necessary services" to offices that lack regular staff, particularly in emergency cases or for a period within one year. Coterminous appointments are granted to directly by the government employees with a fixed tenure, depending on the length of term of the head of the office, the appointing authority, the project, or the incumbent (i.e., the position is dissolved once the incumbent retires or resigns) (CSC, 2018a).

[2] The COS and JO workers in this paper refer to workers engaged by the government to render services under individual contracts of service and job orders. COS is supposedly a one-year contract entered into between a contracting government agency and an individual for conduct of either support services (e.g., janitorial, security) or consultancy services (e.g., technical, professional). Job order is also a form of work contract for a maximum of six months, entered into by those who are expected to render piece work or shorter-term work . In any case, both COS and JO workers are not officially appointed by the government; thus, no employer-employee relationship exists between the government and the individual worker. In any case, both COS and JO workers are not officially appointed by the government; thus, no employer-employee relationship exists between the government and the individual worker. (CSC, 2018a).

[3] This policy would later on become the basis for hiring and promotion of teachers as stipulated in the Administrative Code (Executive Order 292) and the Magna Carta for Public School Teachers (RA 4670).

[4] Not the respondent's real name.

[5] Not the respondent's real name.

[6] Not the respondent's real name.

[7] Not the respondent's real name.

[8] As of late 2018, the minimum wage in Metro Manila is pegged at PHP500-537. See Wage Order No. NCR-22, the same wage order that approved a PHP25 wage hike in the same region.

[9] Four criteria are typically considered in determining the existence of employer-employee relationship: (a) who selects and engages the workers; (b) who pays the wages, (c) who has the power to dismiss workers; and (d) who controls the workers in terms of the means and methods by which the work is to be completed. The fourth criterion is considered the most important one. See Azucena (2013), as cited in Project Jurisprudence ("The four-fold test in labor law," 2019).

[10] Contributions to the SSS are shared between the employer and the employee.

[11] Article 113 of the Labor Code declares cash bond as an illegal labor practice.

References

1987 Constitution of the Republic of the Philippines.

Abramovitz, M., & Zelnick, J. (2015). Privatization in the human services: Implications for direct practice. *Clinical Social Work Journal*, 43(3), 283-293.

Agarwal, P. (2018). Washington Consensus. *Intelligent Economist*. Retrieved from: https://www.intelligenteconomist.com/washington-consensus/

Alexander Lopez et al. v. Metropolitan Waterworks and Sewerage System, G.R. No. 1544472 (Supreme Court, 2005).

Alonso, J. M. & Andrews, R. (2016). How privatization affects public service quality: An empirical analysis of prisons in England and Wales, 1998–2012. *International Public Management Journal, 19*(2), 235–263.

Bach, S. (2016). Britain: Contracting the state: Public service employment relations in a period of crisis. *In Public service management and employment relations in Europe* (pp. 154-181). Routledge.

Bozeman, B. (2007). *Public values and public interest: Counterbalancing economic individualism*. Georgetown University Press.

Bradbury, M. D., & Waechter, G. D. (2009). Extreme outsourcing in local government: At the top and all but the top. *Review of Public Personnel Administration, 29*(3), 230-248.

Bureau of Internal Revenue. (2010). BIR Ruling No. 8-2010.

Bureau of Internal Revenue. (2016). Revenue Memorandum Circular No. 130-2016. *Clarification on the Tax Treatment and Appropriate Withholding Taxes on Income Payments by Departments and Agencies of the Government, Including Government-Owned and/or -Controlled Corporations and Government Financial Institutions to Individuals Engaged under a Job Order or Contract of Service Arrangement.*

Cainglet, F., Vega, T., & Zapata, J. T. (2012). *A social representations study of contractualization* (Unpublished thesis). Quezon City, Philippines: Ateneo de Manila University. Retrieved from Academia.edu website: https://www.academia.edu/14701985/A_SOCIAL_REPRESENTATIONS_STUDY_OF_CONTRACTUALIZATION

Cariño, L. V. (1977). Personnel policies and bureaucratic behavior under Martial Law. *Philippine Journal of Public Administration, 21*(3-4), 303-323.

Carroll, T., Clifton, J., & Jarvis, D. S. (2019). Power, leverage and marketization: The diffusion of neoliberalism from North to South and back again. *Globalizations, 16*(6), 771-777.

Civil Service Commission (2019a). *Inventory of Government Human Resources (IGHR): Career and non-career service as of 31 May 2019*. Retrieved from: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1668-ighrs2019.html?download=4943:ighrs-careerandnoncareer052019

Civil Service Commission (2019b). *Inventory of Government Human Resources (IGHR): JO/COS Data as of 31 May 2019*. Retrieved from: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1668-ighrs2019.html?download=4944:ighrs-jocos052019

Civil Service Commission, Commission on Audit, & Department of Budget and Management. (2017). Joint Circular No. 1, s. 2017. *Rules and Regulations Governing Contract of Service and Job Order Workers in the Government.*

Civil Service Commission, Commission on Audit, & Department of Budget and Management. (2018). Joint Circular No. 1, s. 2018. *Amendment to the CSC-COA-DBM Joint Circular No. 1, s. 2017.*

Civil Service Commission. (1979). Memorandum Circular No. 8, s. 1979. *Policies on the Issuance and Approval of Temporary, Provisional and Substitute Appointments of Teachers.*

Civil Service Commission. (1985). Memorandum Circular No. 5, s. 1985. *Study and Review of Contracts of Personnel and Management Services and of Services of Detailed Personnel.*

Civil Service Commission. (1990a). Memorandum Circular No. 54, s. 1990. *Additional Guidelines on the Confirmation/Approval of Contractual Appointments.*

Civil Service Commission. (1990b). Memorandum Circular No. 26, s. 1990. *Prior Authority of this Commission is Dispensed with in the Hiring/Employment of Consultants on Contractual Basis.*

Civil Service Commission. (1993a). Memorandum Circular No. 27, s. 1993. *Policy on Consultancy Contracts.*

Civil Service Commission. (1993b). Memorandum Circular No. 38, s. 1993. *Omnibus Guidelines on Appointments and Other Personnel Actions. (1993b).*

Civil Service Commission. (1998). Memorandum Circular No. 40, s. 1998. *Revised Omnibus Guidelines on Appointments and Other Personnel Actions.*

Civil Service Commission. (1998). Memorandum Circular No. 40, s. 1998. *Revised Omnibus Guidelines on Appointments and Other Personnel Actions.*

Civil Service Commission. (2002). Memorandum Circular No. 17, s. 2002. *Policy Guidelines for Contract of Services.*

Civil Service Commission. (2008). *2008 Inventory of Government Personnel*. Retrieved from the CSC website: http://www.csc.gov.ph/phocadownload/IGP/2008IGP_stat.pdf

Civil Service Commission. (2010). *2010 Inventory of Government Personnel*. Retrieved from the CSC website: http://web.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/982-2010.html?download=1044:igp-2010

Civil Service Commission. (2012). *State of the HRM in the Civil Service*. Retrieved from the CSC website: http://web.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/981-2012.html

Civil Service Commission. (2016). *Inventory of Government Human Resources (IGHR) as of 1 July 2016*. Retrieved from the CSC website: http://www.csc.gov.ph/phocadownload/userupload/itduser/1stSem2016IGHRReports.pdf

Civil Service Commission. (2017a). *Inventory of Government Human Resources (IGHR): Career and Non-Career Service as of 31 December 2017*. Retrieved from the CSC website: http://csc.gov.ph/phocadownload/userupload/irmoitd/IGHR%20Career%20and%20Non-career%20as%20of%20Dec%2031%202017.pdf

Civil Service Commission. (2017b). *Inventory of Government Human Resources (IGHR): JO/COS Data as of 31 December 2017*. Retrieved from the CSC website: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1214-2017.html?download=4665:ighrjocos12312017

Civil Service Commission. (2018a). *2017 Omnibus Rules on Appointments and Other Human Resource Actions (Revised July 2018)*. Retrieved from the CSC website: http://www.csc.gov.ph/phocadownload//PolicyReso/2018/2017ORAOHRA(RevisedJuly2018)CSCResoNo1800692_af.pdf

Civil Service Commission. (2018b). *Inventory of Government Human Resources (IGHR): Career and Non-Career Service as of 31 December 2018*. Retrieved from the CSC website: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1663-2018.html?download=4894:ighrs122018

Civil Service Commission. (2018c). *Inventory of Government Human Resources (IGHR): JO/COS Data as of 31 December 2018*. Retrieved from the CSC website: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1663-2018.html?download=4895:ighrsjo-cos122018

Civil Service Commission. (2019a). *Inventory of Government Human Resources (IGHR): Career and Non-Career Service as of 31 May 2019*. Retrieved from the CSC website: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1668-ighrs2019.html?download=4943:ighrs-careerandnoncareer052019

Civil Service Commission. (2019b). *Inventory of Government Human Resources (IGHR): JO/COS Data as of 31 May 2019*. Retrieved from the CSC website: http://www.csc.gov.ph/2014-02-21-08-28-23/pdf-files/category/1668-ighrs2019.html?download=4944:ighrs-jocos052019

Corby, S., & White, G. (Eds.). (1999). *Employee relations in the public services: themes and issues*. Psychology Press.

Cristobal, M. A. E. A., & Resurreccion, E. I. (2014). De-confusing contractualization: defining employees engaged in precarious work in the Philippines. *Philippine Law Journal, 88*, 342-374.

de la Cruz, J.M. (2017, August 1). Rightsizing program in bureaucracy to affect 10,000 to 20,000 state workers. *Business Mirror*. Retrieved from the BusinessMirror website: https://businessmirror.com.ph/2017/08/01/rightsizing-program-in-bureaucracy-to-affect-10000-to-20000-state-workers/

Department of Budget and Management. (2015). Glossary of terms. *Budget of expenditures and sources of financing*. Retrieved from the DBM website: https://www.dbm.gov.ph/wp-content/uploads/BESF/BESF2015/GLOSSARY.pdf

Endriga, J. N. (1995). Alleviating the economic crisis: The case of the Filipino overseas contract workers. In P. D. Tapales & N. P. Pilar, *Public administration by the year 2000: Looking back into the future* (503-516). Quezon City, Philippines: College of Public Administration, University of the Philippines.

Executive Order No. 180. P*roviding Guidelines for the Exercise of the Right to Organize of Government Employees, Creating a Public Sector Labor-Management Council, and for Other Purposes.* (1987).

Executive Order No. 292. *The Revised Administrative Code of 1987*. (1987).

Gaffud, D. L. (1994). The employee union as an anti-corruption instrument. *Philippine Journal of Public Administration, 38*(1), 41-66.

Glassner, V. (2010). *The public sector in the crisis* (ETUI Working Paper 2010-07). Retrieved from the European Trade Union Institute website: https://library.fes.de/pdf-files/gurn/00389.pdf

Government Procurement Policy Board. (2016). *The 2016 Revised Implementing Rules and Regulations of Republic Act No. 9184, Otherwise Known as the Government Procurement Reform Act*. Retrieved from the GPPB website: https://www.gppb.gov.ph/laws/laws/RevisedIRR.RA9184.pdf

Grimshaw, D., Rubery, J., Anxo, D., Bacache-Beauvallet, M., Neumann, L., & Weinkopf, C. (2015). Outsourcing of public services in Europe and segmentation effects: The influence of labour market factors. *European Journal of Industrial Relations, 21*(4), 295–313.

Hood, C. (1991). A public management for all seasons? *Public Administration, 69*(1), 3-19.

House of Representatives (17th Congress). House Bill No. 1125. A*n Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

House of Representatives (17th Congress). House Bill No. 2287. *An Act Granting Security of Tenure to Government Employees Whose Nature of Appointment is Either Temporary, Contractual and Casual and Who Have Rendered a Total of Ten (10) Years of Efficient Service.*

House of Representatives (17th Congress). House Bill No. 2988. *An Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

House of Representatives (17th Congress). House Bill No. 4544. *An Act Granting Security of Tenure Under Certain Conditions to Government Employees Whose Nature of Appointment is Either Temporary or Contractual and Who Have Rendered a Total of Ten (10) Years of Efficient Service.*

House of Representatives (17th Congress). House Bill No. 4871. *An Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

House of Representatives (17th Congress). House Bill No. 4950. *An Act Granting Security of Tenure Under Certain Conditions to Government Employees Whose Nature of Appointment is Either Temporary or Contractual and Who Have Rendered a Total of Five Years of Efficient Service.*

House of Representatives (17th Congress). House Bill No. 5094. *An Act Providing for the Security of Tenure of Contractual and Casual Employees of the Government (National and Local) Who Have Rendered At Least Three (3) Years of Continuous and Efficient Service Thereof and for Other Purposes.*

House of Representatives (17th Congress). House Bill No. 5707. *An Act Rightsizing the National Government to Improve Public Service Delivery.*

House of Representatives (17th Congress). House Bill No. 6892. *An Act Providing for Security of Tenure and Benefits for Casual, Contractual and Job Order Employees of the Government.*

House of Representatives (17th Congress). House Bill No. 7415. *An Act Granting Substitute Civil Service Eligibility to and Providing for Security of Tenure for All Non-Regular Employees of the Government Including National Government Agencies, Local Government Units, State Universities and Colleges, Government Owned and Controlled Corporations and All Other Government Instrumentalities, Who Have Rendered At Least Six (6) Months of Continuous Service, and for Other Related Purpose.*

House of Representatives (18th Congress). House Bill 248. *An Act Providing for Security of Tenure and Granting Substitute Civil Service Eligibility for All Non-Regular and Regular Employees of the Government Who Have Rendered At Least Six (6) Months of Continuous Service.*

Ibay, A. B. (1984). Institutionalizing technical assistance: The Case of Zamboanga del Sur Rural Development Project. *Philippine Journal of Public Administration, 28*(3), 203-226.

Labor Relations (Public Service) Convention, 1978 (No. 151). Retrieved from the International Labor Organization Website: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:::NO:12100:P12100_ILO_CODE:C151:NO

Larbi, G. A. (1999, September). *The new public management approach and crisis states (UNRISD* Discussion Paper No. 112). Retrieved from United Nations Research Institute for Social Development website: https://www.unrisd.org/80256B3C005BCCF9/5F280B19C6125F4380256B6600448FDB/$file/dp112.pdf

Mori, A. (2017). The impact of public services outsourcing on work and employment conditions in different national regimes. *European Journal of Industrial Relations, 23*(4), 347–364.

Mori, A. (2020). The neoliberal agenda: Structure of public sector and drivers of outsourcing. *In Employment relations in outsourced public services* (pp. 145-167). Palgrave Macmillan, Cham.

Ofreneo, R. E. (2013). Precarious Philippines: Expanding informal sector,"flexibilizing" labor market. *American Behavioral Scientist, 57*(4), 420-443.

Padilla, P. (1995). Low-salary grades, income augmentation schemes and the merit principle. In P. D. Tapales & N. P. Pilar, *Public administration by the year 2000: Looking back into the future* (pp. 186-258). Quezon City, Philippines: College of Public Administration, University of the Philippines.

Paqueo, V. B. & Orbeta, A. C. (2016). Beware of the *"end contractualization!"* Battle cry. PIDS Discussion Paper Series No. 2016-55. Makati City, Philippines: Philippine Institute for Development Studies.

Philippine Statistics Authority. (2019, December 20). *Preliminary Results of the 2019 Annual Labor Force Survey (LFS)*. Retrieved from the PSA website: http://www.psa.gov.ph/content/preliminary-results-2019-annual-estimates-labor-force-survey-lfs

Presidential Decree No. 442, as amended. *A Decree Instituting a Labor Code thereby Revising and Consolidating Labor and Social Laws to Afford Protection to Labor, Promote Employment and Human Resources Development and Ensure Industrial Peace Based on Social Justice.* (1974).

Regional Tripartite Wages and Productivity Board NCR. (2018). Wage Order No. NCR-22. *Providing for a Minimum Wage Increase in the National Capital Region (NCR)*. Retrieved from the National Wages and Productivity Commission website: https://nwpc.dole.gov.ph/wp-content/uploads/2018/06/reg-ncr-wo-22.pdf

Republic Act 10963. *Tax Reform for Acceleration and Inclusion (TRAIN) Law*. (2017).

Republic Act 9184. *Government Procurement Reform Act*. (2003).

Republic Act 8424. *Tax Reform Act of 1997*. (1997).

Republic Act 6656. *An Act to Protect the Security of Tenure of Civil Service Officers and Employees in the Implementation of Government Reorganization*. (1988).

Republic Act 4670. *The Magna Carta for Public School Teachers*. (1966).

Richter, L. K. (1980). Priorities in national development: A comparative analysis of Philippine policy implementation under Martial Law. *Philippine Journal of Public Administration, 24*(1), 1-25.

Rubery, J., Grimshaw, D., Keizer, A., & Johnson, M. (2018). Challenges and contradictions in the 'normalising' of precarious work. *Work*, *Employment and Society, 32*(3), 509–527.

Senate of the Philippines (17th Congress). Senate Bill No. 283. *An Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

Senate of the Philippines (17th Congress). Senate Bill No. 1184. *An Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

Senate of the Philippines (17th Congress). Senate Bill No. 1193. *An Act Providing for Security of Tenure for All Casual and Contractual Employees of the Government Who Have Rendered the Prescribed Years of Service in the National Government Agencies and the Local Government Units and for Other Purposes.*

Standing, G. (2011). *The Precariat: The new dangerous class*. London and New York: Bloomsbury Academic. Retrieved from: https://hrcak.srce.hr/file/198908

The four-fold test in labor law. Retrieved from Project Jurisprudence website: https://www.projectjurisprudence.com/2019/07/the-four-fold-test-in-labor-law.html

Trono, R. B. (1992). Management and conservation program of a protected wildlife Species: The case of marine turtles in the Philippines. *Philippine Journal of Public Administration, 36*(4), 388-413.

Varela, A. P. (1984). Policy issues in integration for rural development: The case of the population/family planning program. *Philippine Journal of Public Administration, 28*(3), 173-202.

Varela, A. P. (1995). Administrative culture and political change: The Philippine experience, 1961-1987. *Philippine Journal of Public Administration, 39*(1), 37-87.

Villena, I. (2014). Examining the 555 arrangement in contractualization: A study on the repeated hiring practices of firms in selected industries'. *Institute for Labor Studies, Department of Labor and Employment, Monograph Series*, 7. Retrieved from the Institute for Labor Studies website: https://ils.dole.gov.ph/examining-the-5-5-5-arrangement-in-contractualization-a-study-on-the-repeated-hiring-practices-of-firms-in-selected-industries-2/

Vosko, L. F. (2010). M*anaging the margins: Gender, citizenship, and the international regulation of precarious employment*. Oxford: Oxford University Press.

Vrangbæk, K., Petersen, O. H., & Hjelmar, U. (2015). Is contracting out good or bad for employees? A review of international experience. *Review of Public Personnel Administration, 35*(1), 3–23.

Wilson, L. (2018). *Precarious employment in public services* (NERI Research inBrief, 54). Retrieved from the Nevin Economic Research Institute website: https://www.nerinstitute.net/sites/default/files/research/2019/20180108145212.pdf

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