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The **Philippine Labor Review** is published quarterly by the Institute of Labor and Manpower Studies, Department of Labor, Republic of the Philippines. Its purposes are to serve as a forum for analyzing the theoretical basis of important labor policies adopted or being considered by the Department of Labor or the Philippine Government; to promote a scholarly attitude among labor, management and government leaders in their analysis of pressing labor issues in the Philippines and abroad; and, to provide a vehicle for discussion and ventilation of serious and in-depth studies and researches on Philippine labor.

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FOCUS ON
INDUSTRIAL PEACE

## ABOUT THE COVER

Present policies signify an advance in the direction of industrial peace attained through the framework of a tripartite approach. This meaningful leap is captured in the three arms representing labor, management and government that reach out to one another to tackle labor issues and problems in a cooperative spirit.

IN THIS ISSUE:

# Introduction

The publication of the *Philippine Labor Review* is an attempt to fulfill a long-felt need in the country for a forum for analyzing, expounding and ventilating important policies, studies, researches, issues and problems related to labor. This need has acquired greater and special urgency in recent times because of the radical changes the new order has brought about in an almost blinding speed in the country's labor situation, to wit: passage of the New Labor Code, streamlining of the Department of Labor's operations, restructuring of the entire trade union movement based on the one-union-one-industry concept, promotion of new modes of dispute settlement, adoption of the consensus or tripartite approach to labor issues and problems, and lastly, the government's concerted efforts to attain full employment via industrialization.

All of these changes, coupled with the fresh challenges posed by the economic recession of the West, require from all of us — particularly labor, management and government leaders — to pause and reflect on the overall direction our labor situation is taking and seek, if need be, alternative policies and strategies best suited to the country's needs. The task of *Philippine Labor Review* along this line is to serve primarily as a guide and a vehicle for constructive and meaningful discussion of such changes.

## *Philippine Labor Review*

*Philippine Labor Review* will be published quarterly by the Institute of Labor and Manpower Studies. Each issue focuses on a theme which the main articles are supposed to tackle. In addition to these articles, the journal will have the following regular sections: Reviews, Documents and Communications.

For its maiden issue, the theme "Industrial Peace" has been chosen, with no less than the Secretary and the Undersecretary of the Department of Labor themselves as our leading contributors. We also have the expert views of Johannes Schregle, chief of ILO's industrial relations and labor administration department, who gave an exhaustive and highly-illuminating comparative survey of changes in labor legislation in Southeast Asia; Froilan M. Bacungan, director of the U.P. Law Center, who dwelt on speedy labor justice under the Labor Code; and Manuel A. Dia, dean of the Institute of Industrial Relations at the U.P. Asian Labor Education Center, who underscored the role of workers' education, a topic largely ignored in the past, in the promotion of industrial peace. Following the tripartite approach, we have also solicited the views of representatives from both management and labor groups.

For its second issue, *Philippine Labor Review* will focus on "Wages, Income and Employment" — the theme of this year's tripartite conference in Baguio. The other two issues slated for the second half of the year will discuss "The Role of Women in Labor" and "Labor in the Year 2001".

We welcome all contributions, queries and comments from our readers.

**— The Editor**

# Labor Relations under Martial Law*

**Blas F. Ople**

Criticism of the labor relations system under martial law seems to amount to open nostalgia for the period before martial law, perhaps romanticized as a golden age of civil liberties.

What were the distinguishing features of that era in labor relations?

Under Republic Act 875, about 70 per cent of strikes brought disasters to the striking workers instead of benefits and employment security. Nearly every other union that struck was busted and many lost their jobs; but regardless of the fortunes of the workers, some labor lawyers grew richer.

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* **Remarks delivered by Labor Secretary Blas F. Ople at the first meeting of the Department of Labor-Church Monthly Forum on January 13, 1976, at the Army and Navy Club.**

In the year 1974, 47 per cent of all strikes were precipitated by inter-union rivalries which settled no question except the fight for supremacy between labor leaders. Most of these were fights for union dues.

From 1970 to 1972, right up to the declaration of martial law, a large proportion of the strikes were used not to gain economic benefits for workers but primarily to create disorders directed at the Government. At the same time, labor racketeers, often masking as activists, used the strike freely as a shakedown device to compel the employers to settle with them, but not with their workers.

Very often one could no longer distinguish collective bargaining from a revolution, or collective bargaining from shakedown.

The filing of a strike notice in the Bureau of Labor Relations and of an unfair labor practice case in the CIR created the necessary leverage for extortion. On the other hand, some powerful employers deliberately promoted strikes as an occasion to get rid of troublemakers.

Labor cases were freely traded, as though on a stock exchange floor, in the Court of Industrial Relations and in some regional offices of the Department of Labor.

The economy was in a state of near-paralysis and because of lack of dynamism, growth and employment generation, the mass poverty of the population was being steadily aggravated. The food crisis was endemic. The government was fair game for plunder. Thousands of unfinished roads and bridges told a story of corruption and impotence.

In the agrarian field, the tenant farmers were being fed with illusions of land reform, but were rapidly becoming disenchanted and vulnerable to Communist indoctrination.

Collective bargaining, supposedly free, was actually constrained by the overwhelming power of management in a free labor market.

In a situation of mass unemployment, arising from underdevelopment, collective bargaining left to free market forces would be extremely biased against labor, especially where capital has bought the favors of the police, judges, fiscals, etc. Moreover, a fledgling economy, so sensitive to pressures from the outside world, is denied minimum stability under which production can grow and employment can expand.

The creation of the National Labor Relations Commission as the arbiter of labor disputes under Presidential Decree 21 introduced a major innovation in labor relations, which substituted rationality for economic coercion and naked industrial warfare and at the same time created a forum where labor could acquire a bargaining position. Helpless workers immediately acquired bargaining power with their employers through the simple expedient of filing a case in the NLRC. Weak unions, which can be easily and quickly crushed in a strike, acquired a bargaining relationship by coming to the NLRC. During the first two years of martial law, five times more complaints from workers were entertained and decided under the NLRC system than before martial law. The present NLRC, which was created by the Labor Code in 1974, adjudicated 10,839 cases in 1975 as against an average of 600 cases a year in the Court of Industrial Relations before martial law.

In 1974 and 1975, the Bureau of Labor Relations registered about 1,000 collective bargaining agreements per year as against an average of 300 CBA's before martial law.

At the same time, labor racketeering was immobilized.

All over the world today, even in developed countries, workers, employers and governments are searching for effective alternatives to the weapon of naked economic coercion as the final arbiter of labor disputes. We know that commercial disputes and territorial disputes between unions are increasingly being taken out of the arena of settlement by naked force and placed under arbitration, either voluntary or through the Court of Justice in the Hague. In Germany, co-determination is replacing controntation. In Scandinavia, the works councils are replacing confrontation. In the US, the US steel industry is pioneering with automatic arbitration in case of deadlocks in collective bargaining.

In Japan, notwithstanding the publicity about the annual spring offensive, the rate of strikes is only one twenty-second that of the US. They have developed a system of consensus instead of confrontation. It is probably not coincidental that the two countries with chronic economic distress and the lowest growth rates in Europe, Italy and Britain, are the most strike-prone countries. According to the Hudson Institute, Greece and Spain will surpass Britain in per capita income by 1980. Britain is now being labelled "only half in jest" as a European developing country.

But strikes remain optimally useful as a vehicle of political agitation and as an instrument of revolution. It is a weapon al-

ways available to the opposition to discredit a government or to advance on the road to political power. At this time certain religious elements and civil libertarians think this is a major weapon available to them for advancing legitimate causes. But the Communists are waiting in the wings and waiting to use it to plunge the nation into civil war. The record of contemporary history shows that the Communists will master this weapon better than anybody else. Or if they fail like Allende, we can well inherit a Chile and some of us will be in the unenviable position of Eduard Frei keeping up with his gold under the shadow of Pinochet.

The substitution of strikes by arbitration is not repression. It is a device that provides to workers bargaining power denied them by a glutted labor market where the jobless are massing around a plant, even when you cannot see them, ready to pounce on a job, no matter how ill paid. It does not keep the worker docile, as alleged; it gives the worker strength he does not possess in a free market where the unemployed and the underemployed determine the price of labor or the value of a job.

On the other hand, the Government recognizes that where arbitration proves inadequate in certain cases, naked economic coercion, through a strike or a lockout, may be allowed as a last resort. This is the reason for amending Presidential Decree 823, permitting strikes and lockouts where certain conditions concur. This is, to use the words of Justice J. B. L. Reyes, "a real advance on the previous decree from a certain standpoint," alhough he calls this amendment "nominal and minimal." We are not about to lift the floodgates of disorder, anarchy and chaos. The Government does not doubt the fact that the overwhelming majority of our people want social justice with peace and stability under which conditions the country can develop, create more wealth, create more employment and distribute the opportunities more equitably to all the people.

The President is sincere when he says that success of the reforms now being aggressively pursued will facilitate the transition to the parliamentary system as provided for in the Constitution. But mass disorders instigated for political reasons will retard this process. The climate of liberalization changes rapidly, perhaps overnight, if through misguided zeal and the temptation of glory and power, certain elements in our society successfully agitate for mass disorders.

Illegal strikes will be dealt with firmly. The State is not weak; it now stands morally erect, it is strong, it is based on the

real interests of our people. When the State seeks to adjust its policies to the demands of our people, it demonstrates a flexibility which is not a sign of weakness but of confidence, responsiveness and strength.

The State is also sovereign. It will not permit foreign incursions into the rights reserved alone to our citizens. Our political life is ours alone to decide. We should be forewarned by the facts emerging from the Congressional investigations in the US. Recently, it was admitted that $8 million was funnelled to Chile to destabilize Allende; but the money was laundered through the Christian Democratic parties in Europe. This forced the Christian Democratic Union of Germany to issue a public denial.

Some of us would like to be squeamish about the government's relations with unions. But it is a fact that most of the international labor groups operating in the Philippines are funded by foreign governments. I think it is the height of naivete to grant foreign governments the right to interfere with our trade unions but denigrate our Government's efforts to support and promote trade unionism within its own territory. Neither do we want to see the tragedy of Angola or a Vietnam, the main feature of which is foreign interference, repeated in our trade union movement and perhaps later on in the whole country.

I have not touched in detail on Presidential Decree 823 and its amendments but have deliberately focused on the larger picture, a larger framework of reality and policy in which PD 823, in my view, should properly be situated.

# Labor Unions and Industrial Peace

**Amado G. Inciong**

A labor union is essentially an agent of change. Its central function is to disturb the status quo — in wages, vacation leave, sick leave, Christmas bonus, mid-year bonus, retirement, employment status, working hours, union security, hospitalization and other terms and conditions of employment. Therefore, it is not in the nature of a labor union to be satisfied; it is always pushing forward, seeking to protect and advance gains already made.

## The Game

Free collective bargaining is the name of the game through which a labor union tries to effect change. Like other games, free collective bargaining is covered with rules — those imposed by law, by practice, or by collective agreement. But labor unions or their spokesmen — whether union presidents or union lawyers — have different backgrounds or, more important, ends and, therefore, they play the game differently. Hence, the game is exciting, colorful, unpredictable and even anarchic, the rules notwithstanding.

## Union's Unique Role

But a labor union's commitment to change need not imperil industrial peace. On the contrary, seeking change is the labor union's unique role in maintaining industrial peace. To the extent a labor union effectively plays this unique role, to such extent it reinforces industrial peace; to the extent it fails to do so, industrial peace is undermined. In short, a labor union promotes industrial peace as it fulfills itself as an agent of change, and vice versa.

What are some of the ways in which labor unions, by failing to perform their essential function, do industrial peace a disservice?

Let us enumerate and discuss them:

**1. Company domination**

This is the worst crime a labor union can commit against itself and, therefore, against industrial peace.

There is company domination where the union is — or, more precisely, its leadership — captive of the will of management.

At the root of company domination is an uninformed and, therefore, irresponsible general membership. The ignorant rank-and-file make the union leadership vulnerable, no matter how honest and well-meaning it may be at the beginning. First of all, the leaders need not feel accountable to the members, since the latter are not in a position to make them accountable any way. Second, the leaders are not certain of firm rank-and-file support in case of confrontation with a powerful management. Third, if the leaders do not capitulate to management, they are in danger of unceremoniously losing their leadership, either to another captive union, or to an initially genuine union emerging in the scene with or without management participation. In fact, they may even lose their jobs. Fourth, the path of least resistance for the union leaders — indeed, the personally rewarding path — is, therefore, to cooperate with or capitulate to management.

But, sometimes, management does not have to do anything to have a captive union. The business of some labor leaders is to organize company unions for employers who are willing to pay the price. They organize company unions, for a consideration, either to destroy an existing authentic union or prevent the establishment of one. On the other hand, at the local level, many union leaders — out of ignorance or ingrained slave mentality — simply surrender to management, sometimes surreptitiously, at other times flagrantly.

Where the employer actively took part in setting up a company union, the usual arrangement is to place the union under the control of a lawyer who is paid mainly by the employer. Some so-called labor lawyers are actually in this category. They are employed by employers to keep unions under company domination.

How does a company union undermine industrial peace?

Lacking the will and the ability to service its members, a company union is soon discovered by its members, no matter how ignorant they may be. Moreover, the discovery is usually initiated or aided by factions within the union or by outside labor groups, which either genuinely want to rescue the workers from captivity, or want to have a share of the loot or all of it. The result is inter-

minable intra-union or inter-union power struggles — the kind which accounted for 57% of all strikes and strike notices before martial law. Labor disputes which mature into illegal strikes and lockouts under martial law are of a similar nature.

**2. Failure to service members**

The second main crime of a labor union against industrial peace is its inability to service its members: at the grievances committee, before the conciliation table, or on the arbitration level.

The failure of a union to service its members is often due to company domination, but the latter need not be the only cause. Some powerful labor federations or authentic unions, though independent of management, are unable to service their members adequately. Some of the reasons for this are over-extension or organizational malfunctioning, incompetent or morally faultable staff, lack of training of union members or union officers, or sheer lack of resources.

If the needs of the members are not adequately serviced, intra-union or inter-union power struggles are inevitable, always at the expense of industrial peace. Moreover, extraneous forces — such as labor dealers and extremists of the left and the right — come in. Unserviced union members often become gullible tools of adventurers and revolutionaries.

A union, therefore, need not only have the will and the integrity to act; it must also have the ability — the competence and the resources — to do so.

**3. Lawyer domination**

The third great crime a labor union can commit against industrial peace is lawyer domination.

Earlier, we mentioned the situation in which employers employ lawyers surreptitiously to keep unions under company control. There are other ways in which lawyers undermine industrial peace.

First, lawyers play an important role in the aging of labor disputes. Sometimes they are overloaded with cases and keep on stipulating with management lawyers the postponement of hearings or meetings. Others deliberately prolong the litigation to be able to hang on to their client unions.

Second, lawyers — some of them, at least — try to create problems where there are none or to aggravate problems where there

are. This is natural, for they have cases only when there are problems. As a rule, they do not believe in settlement by conciliation; they try, overtly or covertly, to precipitate formal litigation. The result is delay, which often drives workers to strike, legally or otherwise.

Third, some lawyers collect as high as 50% — in one recorded case, 100% — of all retroactive benefits obtained through collective negotiations or litigation. When the rank-and-file who are made to expect a large amount or charmed with false hopes during the long wait get only a pittance in the end, their tendency is to run amuck, especially if there are agitators, well-meaning or not.

Labor unions fall under lawyer domination because their leaders lack training or experience (in other words, insecure by themselves), because of the traditional Filipino dependence upon the "abogado" to solve all his problems, because employers or rival unions always have lawyers, and because they often have to deal with lawyers in the Department of Labor.

### 4. Political manipulation

Through unionism, the working masses are able to acquire power — the power arising out of organized number. Under the law, this power is supposed to be used for collective bargaining purposes only — in other words, to seek higher wages and better terms and conditions of employment.

But union power can be used for other purposes. In Europe, it has served as mass base for political parties. So is it in the United States. In the Third World, union power has been used to reinforce or undermine existing governments.

Today, in our country, some extremists of the right and the left, having lost to the Democratic Revolution of 21 September 1972, now seek — covertly or otherwise — to use union power to harass the New Society, perhaps to make a comeback.

These extremists, because of the very nature of their mission, do not care about industrial peace. In fact, their mission is to unsettle peace, industrial or not. Their mission is not to improve the livelihood of the workers, but to exacerbate their discontent. Their mission is not to solve the problems of workers, but to make those problems even more unbearable. In short, their mission is to precipitate their own revolution, as against the Democratic Revolution of the New Society.

Therefore, to the extent unions lend their power to the extremists, to such extent they cease to be unions and they undo industrial peace.

Extremists are now actively competing for the control of organized labor. They succeed where the unions are company-controlled, where the unions are unable to service their members, where there is delay and unconcern in the disposition of labor disputes — in sum, where the union has failed.

**5. Foreign interference**

In their power struggles in the Third World, superpowers are known to have used union power for or against established governments. This has happened in many countries in Asia, Latin America and Africa where union power has been employed in support of coups, revolutions or counter-coups and counter-revolutions.

Superpowers do this through many devices, including liberal assistance to Third World unions, in cash or in kind, given directly or through highly disguised channels.

Where only one superpower is present in a country, such assistance to labor unions is safe — until the superpower involved decides to topple the existing government. When it does so, then the recipient unions cease to be agents of collective bargaining; they become foreign agents or, from the standpoint of the indigenous government, agents of treason.

Where there are two or more competing superpowers, then superpower assistance to unions can immediately become an unsettling factor in the industrial peace equation.

Unions, therefore, should be wary of foreign assistance — including those which today appear on the surface to be extremely well-meaning and innocent. Such assistance is a potential threat not only to industrial peace, but also to the security of the nation.

**6. Family-controlled unions**

Some labor unions, including federations, are controlled by only one family or clan. Sometimes, the union or federation leadership is composed of brothers, in-laws, father and children, husband and wife, and other similar family or clan combinations. Where the family or clan is fortunate — it has many competent or able members — the result is not very bad. But where the only qualification for leadership is blood, the results are disastrous.