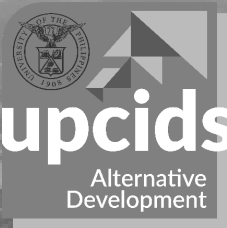


UNIVERSITY OF THE PHILIPPINES
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PUBLIC POLICY MONOGRAPH SERIES 2022-06

COVID-19-Related Discrimination of Workers in the Mactan Export Processing Zone during the Pandemic

Benjamin Velasco
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COVID-19-Related Discrimination of Workers in the Mactan Export Processing Zone during the Pandemic¹

Benjamin Velasco² and Judy Ann C. Miranda³

Abstract

The research examined the covid-related discrimination suffered by low-wage, mostly women, garment workers in three factories at the Mactan Export Processing Zone (MEPZ) in Lapu-Lapu, Cebu. Focus group discussions and key informant interviews were utilized in the study. Using the lens of equality and non-discrimination, the research revealed that workers were victims of covid-related discrimination. Thirteen types of covid-related discrimination suffered by workers were found in the study. Among these are pregnancy, health status, freedom of association, harassment by State authorities, harassment by company management and theft of workers' benefits. The number and kinds of discrimination that were uncovered in the research suggests that discrimination was widespread and severe during the pandemic specifically among garment workers in MEPZ and workers in the Philippines generally. The study proposes a set of specific steps to remediate the discrimination endured by garment workers.

1 The data gathered for the paper was part of a research whose proponents were the Partido Manggagawa and the Philippine Alliance of Human Rights Advocates. The research was undertaken as part of a global project delivered by the Equal Rights Trust with the financial assistance of the European Union. The contents of the paper are the sole responsibility of the authors and the Equal Rights Trust and can under no circumstances be regarded as reflecting the position of the European Union.

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The Plight of Workers in the Philippines during the COVID-19 Pandemic

The people of the Philippines, especially workers and the poor, suffered due to the COVID-19 pandemic. The health crisis, however, did not directly cause hardships among the working class. Economic difficulties has been attributed to the failure of former president Rodrigo Duterte's COVID-19 response. In addition, employers took advantage of the situation by implementing antiworker regulations, and the government remained indifferent to such acts of impunity.

The Philippine economy contracted significantly, reaching figures that were the lowest since the end of World War II. The gross domestic product (GDP) shrank by 9.5 percent in 2020 (Leyco 2021). In the second quarter of 2020, at the height of the lockdown, the GDP collapsed by 16.5 percent (Lopez 2020). At that time, 7.3 million Filipinos were out of work (Cordero 2020). By the end of the year, unemployment went down to 4.5 million. However, this was due to 2.2 million people leaving the labor force (de Vera 2020).

The COVID-19 pandemic exacerbated hunger in the country, affecting 7.6 million families in September 2020 (Nazario 2020). This was worse than the 4.2 million hungry families at the peak of the lockdown in May 2020 (Ornedo 2020). This was undoubtedly due to a combination of widespread unemployment and rising food prices. The cost of basic food items increased as a result of a series of typhoons in the latter part of 2020, the impact of the lockdown on supply chains, and the profiteering of merchants. In some places, a kilogram of pork was higher than the daily minimum wage of workers.

While the Philippines experienced an economic crisis, many neighboring countries were able to weather the pandemic better. The economy of Vietnam, for example, slightly grew. Even the Gross Domestic Product (GDP) of China, where COVID-19 originated, also increased (Lee 2021). Their fast and effective response to health crisis saved their societies from suffering and prevented their economies from declining further.

Both proved successful in containing the impact on livelihood and employment. This implies that the pandemic per se did not directly translate into an economic recession. In contrast, the Philippine government responded to COVID-19 late, and did so in a reactive manner. To cite one crucial example, the administration of Duterte refused calls to suspend flights from China, and when it finally came round to it, it was already too late (Punzalan 2020). The government was caught flatfooted when community transmission of the virus was detected in early March 2020 (Luna 2020).

When the Duterte administration finally sprang into action, it treated the COVID-19 pandemic as a peace-and-order problem instead of a public health concern. Instead of health workers, the government deployed the police and the military to enforce community quarantines. Retired generals were placed at the helm of the national COVID-19 task force, which did not have a single epidemiologist (Levien 2020). Instead of conducting tests for the public, the Philippine government focused on mass arrests (Talabong 2020b). Ordinary quarantine violators, who were often poor people seeking to eke out a living amidst the lockdown, were harshly punished. But prominent personalities, like a senator and some government officials, walked free despite breaching quarantine protocols outright (Canlas 2021). At one point, an appeal by doctors against prematurely opening the economy angered President Duterte, who denounced it as an uprising. His action exposed his authoritarian bent and lack of respect for democratic processes and civil liberties (Ranada 2020). The authoritarian response of the Duterte administration exhibited the paucity of crucial solutions to the pandemic. The only step it undertook with determination was ruthlessly enforcing the lockdown. Its inevitable result was severe economic dislocation, massive unemployment, and extensive hunger.

Even as the pandemic proved to be a curse on the working people, it also provided an opportunity for misbehaving employers. COVID-19 became their convenient excuse not to fulfill their obligations to their employees. They did not pay benefits to workers, who were left on floating status for months without any assurance of returning to work. Mass layoffs occurred left and right. Collective bargaining agreements were not implemented. Labor unions were busted.

The Mactan Export Processing Zone (MEPZ) in Metro Cebu, the second biggest metropolis in the Philippines, was one hotspot of labor disputes and workers' grievances. Some 4,400 workers were fired by Sports City, the largest employer in that economic zone or ecozone (Erram 2020). Mass layoffs also transpired in the factories Yuenthai, FCO International, First Glory, and Kor Landa (Partido Manggagawa 2020b). In apparent attempts to destroy recently formed labor unions, First Glory and Kor Landa terminated their leaders. Employers were evidently weaponizing COVID-19 to roll back labor rights.

Similar disputes also happened in other industrial areas. The Arcya Glass factory in Laguna province, south of Manila, declared a shutdown but kept operating on a skeleton force. The union of Arcya Glass workers alleged that the feigned closure was motivated by the desire to avoid negotiating a collective bargaining agreement (Partido Manggagawa 2020a). Through personal communication, Renato B. Magtubo (2021), chairperson of Partido Manggagawa, revealed several labor issues amid the COVID-19

pandemic. In the industrial province of Cavite, two garment factories, Rainbow 21 and JL Imex, unceremoniously closed down, leaving scores of workers with unpaid wages and benefits, including separation pay. In FCF Manufacturing Corporation and FPF Corporation, sister companies that produce high-end bags and operate at the Bataan Export Processing Zone, workers' wages were not paid on time. The managements of a university and an energy-generation company stubbornly refused to implement provisions of the collective bargaining agreement, using COVID-19 as an alibi.

In the face of these grave abuses, the Department of Labor and Employment (DOLE) was criticized for washing its hands of the problem and “[exercising] social distancing from workers” (Partido Manggagawa 2020a).

The Department of Labor and Employment (DOLE) released several issuances during the pandemic that provided employers with loopholes. Labor Advisory 17 allowed employers to cut wages and benefits. Department Order (DO) 2013 suspended the acceptance of complaints from workers and even the filing of certification elections. And DO 2015 extended by another six months the allowable forced leave for workers. (Velasco 2021)

All these issuances were enacted despite the vehement, united opposition of various labor organizations in the country.

The pandemic of labor rights violations came on the heels of frozen real wages for more than a decade and a half. From 2001 to 2016, labor productivity rose by more than 50 percent, but real wages were stagnant (Mangahas 2018). Thus, when the pandemic struck in 2020, workers were already enduring a long spell of regressing living standards. Thus, while the health crisis affected everyone, the working class undoubtedly bore the brunt of its deleterious impact.

Amid such suffering, some workers fought back against abuses, but authorities immediately suppressed their resistance. On the pretext of lockdown violations, local police and security guards dispersed a picket line of workers of Sejung Apparel, a garment factory in an ecozone in Cavite (Partido Manggagawa 2020c). Police also harassed Foodpanda delivery riders, arresting one. The riders demanded the withdrawal of the delivery app's rules, which had resulted in lower pay and increased safety risk (Bagaoisan 2020). A rally by First Glory workers in the Mactan Economic Zone was also dispersed, and five of their leaders were arrested for an alleged breach of a local quarantine ordinance (Medenilla 2020).

The abuse of employers, the indifference of the DOLE, and the repression by security forces derive their potency from the authoritarianism of President Duterte. While misbehaving employers violate the rights of their workers, Duterte bludgeons

his political rivals, using COVID-19 as a club. During the lockdown from March to May 2020, mass protest actions were effectively banned, as COVID-19 protocols (social distancing, etc.) were used as the excuse to disperse protests. On 5 May 2020, the media network ABS-CBN was shut down, resulting in the retrenchment of 11,000 employees (San Juan 2020). In addition, the Anti-Terrorism Act of 2020, or Republic Act [RA] No. 11479, was railroaded amid the lockdown. The said law hangs like Damocles's sword over the heads of human rights and labor rights defenders. The Act has been used by the chief of the Philippine National Police (PNP) to deny collective bargaining rights to a union composed of non-uniformed personnel, and the police has often used it to monitor labor unions in industrial areas and for security forces to vet community organizations (Magtubo 2021). Duterte's authoritarian rule and the draconian Anti-Terrorism Act clearly endangered the labor movement.

The government pinned its hopes on normalizing the economy through vaccination. But the failures of the COVID-19 response were repeated in the vaccine roll-out. Unlike other countries in the Global South, the Philippines did not start vaccinations at the latter part of the first quarter of 2021 (Ranada 2021). In addition, there were allegations of corruption in the deal to procure more expensive but less effective vaccines from China (Romero and Romero 2021). Health workers and senior citizens were supposed to be the priority for vaccination, but smuggled vaccines had already been injected into personnel of the Presidential Security Group (Reyes 2020). Thus, while "the new normal" has been as a buzzword frequently used by officials and pundits, the old habits of graft and corruption crippled a proper COVID-19 response.

The State and employers have the duty to respect, protect, and fulfill human and labor rights. But as workers cannot exercise their rights and assert their agency due to lockdowns and Duterte's iron fist, the impunity of these duty-bearers becomes rampant.

The principles of equality and nondiscrimination are framed within the general values of human rights. With the broad denigration of human rights in the Philippines before and during the pandemic, cases of discrimination are proliferating too. This case study, which examines COVID-19-related discrimination of workers in three factories in the MEPZ in Cebu, reveals the wider pattern of rights violations in the Philippines during the pandemic.

Gathering Stories of Workers about COVID-19-Related Discrimination

The research has two main objectives: (1) to identify the types of COVID-19-related discrimination of workers in three factories at the MEPZ and (2) to analyze the causes and effects of these forms of discrimination.

The three factories are Metro Wear Inc., Globalwear Manufacturing Inc., and First Glory Philippines Inc. The first two factories are part of the Sports City Group of Companies, which owns five firms. Sports City is the biggest employer in the MEPZ and is owned by Sintex Industries Ltd., a textile company based in India. Metro Wear supplies garments to Adidas, and Globalwear to Under Armour. Sports City factories also supply apparel to Lululemon and Saucony. Meanwhile, First Glory is a subsidiary of the Hong Kong-based First Glory Group. It makes garments for American apparel retailer, J. Crew. The situation of workers in the three factories is symptomatic of the specific plight of garment workers in the MEPZ and more generally of ecozone workers in that area.

In order to generate primary data for the research, two methods were used: focus group discussions (FGDs) and key informant interviews (KIIs). The FGDs involved two sets of workers from Metro Wear, two sets from Globalwear, and three sets of workers from First Glory. Table 1 below shows details of the FGDs.

The total participants in the FGDs are 29 male workers and 61 female workers. Of these, 18 men and 18 women are from First Glory, 11 men and 23 women are from Globalwear, and 20 workers, all female, are from Metro Wear. These are, however, approximate numbers since a few of the workers attended more than one FGD.

The FGDs aimed to identify various forms of COVID-19-related discrimination affecting workers. At least four forms were expected to be identified based on initial data—maternity, pregnancy, health status, and place of residence. However, the FGDs and KIIs revealed 13 forms of discrimination. The questionnaire was designed to generate responses from workers. The FGD guide was written in Filipino.

The results of the FGDs guided the conduct of the KIIs. Selected participants in the FGDs took part in the KIIs. The key informants' narratives were deemed to exemplify

TABLE 1. Details of FGDs Source: Authors.

| Time (One Day Each) | Company | Number of Men | Number of Women |
|---------------------|-------------|---------------|-----------------|
| November 2020 | First Glory | 0 | 12 |
| | Metro Wear | 0 | 11 |
| | Globalwear | 7 | 9 |
| December 2020 | First Glory | 8 | 4 |
| | Metro Wear | 0 | 9 |
| | Globalwear | 4 | 14 |
| | First Glory | 10 | 2 |

most clearly the forms of discrimination. The informants were promised anonymity as part of the interview. The same was true of the FGDs. The ten KIIs were conducted in January 2021. All responses were then translated into English, though some details mentioned have been omitted to help enhance anonymity.

Except for one male worker, all the informants were females. All are regular workers and can be considered veterans with an average of 16 years on the job (N = 9). The mean age of the informants is 42 (N = 6). The jobs of the informants directly pertain to production.⁴

Women form the majority of workers in the economic zone in general and among garment workers specifically. This demographic is reflected in the gender make-up of the participants in the FGDs and KIIs.

The KIIs were designed to be semistructured interviews. One purpose of the KIIs was to relate the causes of the kinds of discrimination suffered by the workers to the specific COVID-19 response by either company management or government authorities. Another purpose of the KIIs was to understand the impact of the discrimination on workers' lives and that of their families. The actual KII questionnaire used was in Filipino.

In addition, the researchers interviewed one of the organizers of Partido Mangagawa (Workers' Party) in the MEPZ (thereafter referred to as "labor organizer"). He possesses direct knowledge of the situation of the workers and was intimately involved in the disputes at the ecozone. He provided a macrolevel perspective on the plight of the workers and additional critical information.

The FGDs and KIIs were all held in face-to-face settings and facilitated by local organizers using prepared guides. The proceedings were recorded using mobile applications and are stored digitally. The researcher's interview with the labor organizer was not recorded because it was conducted via cell phone. All participants in the FGDs and KIIs were first briefed about the objectives and the methods of the study. They gave their consent before proceeding with the activity. The FGDs and KIIs were done in the local language to let the participants and informants speak more freely about their situation. Thus, the recorded conversations are in the local language. To enhance the anonymity of the informants, several details from their sentiments were redacted or replaced with more generic terms. The former is indicated via "quoted redacted" while the latter are enclosed in brackets.

4 The research specified the jobs of the informants, but have been omitted here to enhance their anonymity.

Aside from FGDs and KIIs, relevant information was gathered from an analysis of pertinent documents, such as government orders, news stories, and other relevant studies on the impact of COVID-19 on workers. Using all these different research methods enabled the triangulation of data sources and study methods.

Sports City and First Glory were informed through email about the study and asked for feedback on the findings of the research. The companies (as of press time) did not respond. The email sent to the companies did not bounce back, and the researchers are certain that the email addresses were valid accounts. The email address of Sports City was used by an international human rights nongovernment organization (NGO) in their communication with the company. Meanwhile, the email address of First Glory was used by the DOLE in its communication with the company and the union.

Thirteen Types of COVID-19-Related Discrimination Suffered by Workers

An initial assessment based on preliminary data from labor organizers suggested that workers in the MEPZ were discriminated against in four aspects: maternity, pregnancy, health status, and area of residence. While no case of discrimination against women who had given birth was uncovered, numerous other types of discrimination were unearthed in the FGDs and KIIs. The following grounds for discrimination were identified:

- (1.) Pregnancy
- (2.) Health status
- (3.) Freedom of association
- (4.) Harassment by state authorities
- (5.) Harassment by company management
- (6.) Suspension of complaints mechanism by the State
- (7.) Lack of aid
- (8.) Criteria for mass layoffs
- (9.) Place of residence
- (10.) Becoming a suspect COVID-19 case
- (11.) Forced travel at night
- (12.) Provision of shuttle service
- (13.) Theft of workers' benefits

The kinds of discrimination during the pandemic were severe and widespread, affecting garment workers in MEPZ specifically and workers in the Philippines generally.

Pregnancy

Cases of discrimination against pregnant workers were revealed in Metro Wear and Globalwear. In total, four pregnant workers were furloughed without pay. This was irrespective of their term of pregnancy.

According to a Metro Wear worker, her pregnant colleague was not allowed to work for six months. The company claimed that it was following COVID-19 protocols set by the government. It was also revealed that another employee was put on forced leave or floating status due to her pregnancy. Both did not receive any assistance from the company.

Similarly, one Globalwear employee who was several months pregnant was advised by the company not to report for work on the last week of June 2020. The stated reason was that the government's Inter-Agency Task Force (IATF), which oversees the COVID-19 response, forbade pregnant women from going to work. However, no memo was handed out to her.

Informant 5, a worker in Metro Wear who already was a few months pregnant when the lockdown in Metro Cebu came into force, testified that she was put on forced leave because of her situation. Resuming work a few months later, she said, "I did not notify them at that time. They said pregnant workers are not allowed to be on duty. I did not let them know about it because I still wanted to work. But eventually, many already knew [about it], so I was called . . . and advised not to be on duty." When she was asked to clarify if the government's COVID-19 workplace protocol was read to her, she replied that "No, they just talked to me, and that was it."

These identified cases, which occurred in the first half of 2020, are in fact a violation of government regulations. The Department of Trade and Industry (DTI) and DOLE's Interim Guidelines on Workplace Prevention and Control of COVID-19, released on 30 April 2020, actually stipulate that only high-risk pregnancies are considered "most-at-risk" for COVID-19 (Section 8, Note 1). Unless a health professional certifies that the pregnancies of Metro Wear and Globalwear workers are high-risk, the companies' decision lacks basis, violates government orders, and is clearly discriminatory.

The Interim Guidelines permit employers to create work-from-home arrangements for most at-risk workers. However, factory workers in manual production cannot work from home. Thus, this stipulation basically allows employers to put most-at-risk factory

workers on forced leave. Yet the “no work, no pay” principle applies to furloughed employees, unlike employees who work from home and are paid wages. Therefore, the government-issued DTI and DOLE Interim Guidelines are a case of indirect discrimination. The guidelines do not directly discriminate against pregnant factory workers, but they disadvantage them nonetheless, because they cannot work from home and be paid. The indirect discrimination could have been addressed when the employer, the State, or both provided pregnant workers a reasonable accommodation, such as a paid leave or quarantine subsidy. But that was not the case.

Later, the Joint Memorandum Circular No. 20-04-A from the DTI and DOLE, “Supplemental Guidelines on Workplace Prevention and Control of COVID-19,” was released on 15 August 2020. Section C1 included pregnant workers as most-at-risk without distinction. This revised classification of pregnant women still indirectly discriminates against women factory workers because work-from-home arrangements do not apply to them.

Health Status

In all three factories, hypertensive workers were not allowed to return to work. They were instead subject to forced unpaid leave. At First Glory, employees with hypertension were not called back for work when the company resumed operations on 1 July 2020. About 20 to 30 workers were affected by this policy. The affected employees filed a complaint at the National Labor Relations Commission (NLRC), the labor court in the Philippines, and the issue was covered by the media. The company finally allowed them to report for work in October 2020.

Similarly, hypertensive Metro Wear employees were sent home immediately. One male worker was forced to go home because the company’s human resource department claimed that he had high blood pressure. He was furloughed verbally, and he did not receive a memo. This action violates rules on administrative cases against employees.

One of the FGD participants from Globalwear was put on forced leave for allegedly being most at-risk for COVID-19. She had been reporting back to work for two weeks after the company resumed operations when she was temporarily laid off again because it was claimed that her blood pressure was not stable. However, she insisted that she was not experiencing severe signs of hypertension. Though she pleaded for her job so that she could provide for her family, Globalwear still put her on forced leave without pay.

According to Section 8 of DTI and DOLE Interim Guidelines, released in 2020, hypertensive employees are explicitly considered among the “most at-risk” workers. Employers are encouraged to put “most at-risk workers” on WFH arrangements without diminution of pay and benefits. Later, however, Section C1 of the DTI and DOLE Supplemental Guidelines state that “individuals with underlying health conditions” are classified as “most-at-risk,” but did not explicitly mention hypertensive workers. Again, employers are encouraged to put most-at-risk employees on work-from-home arrangements. Yet Section C1 also stipulates that they must allow them to “occasionally return to work” but only for “a specified number of hours,” provided they are certified fit to work.

Admittedly, there is a legitimate reason for the government to issue these guidelines. However, employers use these guidelines to discriminate against employees who are hypertensive since they are evidently at-risk for COVID-19 infection. Hypertensive factory workers and similarly situated employees are indirectly discriminated against, since they cannot work from home due to the nature of their work. They are thus deprived of the means of livelihood based on their health status. The means to legitimize discrimination against hypertensive employees is disproportionately detrimental to them. Therefore, this policy by the State and by employers is discriminatory.

Freedom of Association

Workers from all three factories formed unions amid the COVID-19 pandemic as a means to seek redress of their grievances. They have long complained of low wages, and during the health crisis, they bemoaned further about the lack of assistance from their employers. The need for protection through a union was also highlighted by the retrenchment of 4,000 Sports City employees in September 2020. It was the single biggest mass layoff in the Mactan ecozone and arguably among the largest in the country during the pandemic.

Informant 4, a worker from Metrowear, described her sentiments about the union. “I still wasn’t a member that time. I got much braver when I joined the union though. . . . People should join the union because you won’t get heard if you fight by yourself. It’s better to be united than to fight by yourself.”

According to the labor organizer, the unions were formed and registered one after the other. Core groups in the three factories have existed since even before the pandemic. However, the momentum for union building clearly built up in the latter half of 2020 because workers' discontent smoldered over the lack of assistance. In fact,

two unions were formed in Globalwear—one for rank-and-file workers and another for supervisory employees. Furthermore, another union was organized in Mactan Apparel, a sister factory of Metro Wear and Globalwear and part of the Sports City group of companies. Thus, by November 2020, the unions were strong enough to file successive petitions for certification election at the DOLE.

The labor organizer testified—from his experience in the Mactan ecozone and arguably elsewhere—that once the company management realizes that its workers have unionized, it will try to bust the union. The pandemic did not change this approach. If at all, the health crisis provided employers an opportunity to resort to union-busting more easily. The management of First Glory fired union officers and members. In the case of Metro Wear and Globalwear, employers were able to suspend the holding of certification elections indefinitely, arguing that it posed a health risk. As the election was suspended, workers who were active in, or supportive of, the union were harassed.

Informant 10 also narrated the First Glory management's efforts to bust unions. "They threatened us a lot that the company would close if we do so [form a union], but we were not afraid because it is our right to form a union to increase job benefits. Also, they [First Glory management] have a lot of unfair rules that do not follow the Labor Code." He provided more details. "It was the . . . manager. He intimidated people that the company did not really like the union because it would be the reason for closure."

Aside from anti-union intimidation and harassment of workers at First Glory, labor organizers in First Glory alleged that the mass layoff at the company on 27 November 2020 was intended to bust the newly formed union. On the morning of that day, DOLE called a preelection conference that both the union and management attended. At 2:00 P.M. on the same day, management called 300 preselected workers to a conference room and announced that they were being terminated effective immediately. Management stated that workers were being fired because of losses due to COVID-19, but the company was unable to show a financial statement to support the claim. In a series of mediation meetings called by the DOLE and even the mayor of Lapu-Lapu, where the ecozone is located, First Glory never presented any evidence of losses due to the alleged bankruptcy of its main customer, J. Crew. In fact, J. Crew filed for bankruptcy in May 2020, but it exited in September 2020, two months before the mass layoffs. Union organizing, and not business losses, clearly motivated the mass layoffs in First Glory, affecting almost the entire union leadership, including the president and many members.

In comparison, the subversion of the exercise of freedom of association by workers was subtler at Metro Wear and Globalwear. In these two factories, the management

busts unions by having its personnel disseminate anti-union propaganda and by intimidating supporters of labor unions in these companies.

Informant 4 from Metro Wear stated that anti-union propaganda was spread on social media. She mentioned the name of a manager who did so using Facebook. She said that there were others, but they use dummy accounts, so she could not identify them. “There are a lot, but they used dummy accounts, so how could I know them?” she insisted.

Informant 4 also identified another management personnel who talked to her in person. She narrates,

He asked me why we kept on pushing people to join and recruiting them. I told him to ask those people in [the production] line with me if I was recruiting anyone. I just told him that there’s no need to recruit anyone because I already know what they support. Even when you don’t recruit them, I already know who they’re voting for because they want change. I told him, [quote redacted]. And then he went silent when we talked about . . . He couldn’t say anything because even he didn’t understand it.

Informant 4 insisted that while no one else apart from that person talked to her against the union, a number of other workers experienced management interference. She also cited another management personnel who intimidated her coworkers who support the union.

There were two of them, Ate Maria [name changed to maintain anonymity] and Kuya Juan [name changed to maintain anonymity] were the ones whom she scared. She told them about [not involving themselves in the union since it will shut down the company]. You know, Kuya Juan even made fun of her and told her about reporting her for recruitment. I even laughed about what Kuya Juan did. He turned the story around.

Aside from linking factory closures to the formation of unions, another issue used against unionism is the threat of blacklisting organized workers. According to Informant 5, “they scare people not to join any union because you might be blacklisted.”

The labor organizer stated that while Sports City did not terminate union officers and members en masse, as did First Glory, the former did maneuver to subvert the exercise of freedom of association. The Sports City companies Metro Wear, Globalwear, and Mactan Apparel all filed pleadings to hold the certification elections in abeyance due to concerns about COVID-19. DOLE officers handling the certification elections dismissed the companies’ manifestations, because Section 5 of DOLE’s Department Order 214-20 explicitly stipulated that such can proceed even during the pandemic.

In fact, according to the labor organizer, a certification election had already been successfully held in late 2020 at Carmen Copper, a large mining company in the province of Cebu. However, Sports City appealed to the Office of the Labor Secretary, insisting on the same argument. In response, the DOLE suspended the proceedings. The DOLE's acceptance of the appeal and the resulting suspension of the certification election directly violates Section 19 of DO 40-03 (as amended by A-I) which reads: "The order granting the conduct of a certification election in an unorganized establishment shall not be subject to appeal" (19). The appeal was filed on 22 December 2020, and for almost six months, the proceedings for the certification election remained deferred. The certification election only pushed through in the middle of 2021.

Freedom of association is a protected right of workers, but the State is indifferent to their plight or collaborate with employers, suppressing unionism in the EPZs as an incentive to attract foreign investments (Partido Manggagawa 2010; Velasco 2019). It is thus justified, though not openly and directly, that employment creation trump labor rights. It seems better for a worker to have a job even though the pay is low, benefits are lacking, employment is insecure, and conditions are unsafe. And some claim that the economy will develop faster if human and labor rights are sacrificed in the meantime. This logic is fallacious because the Philippines has oriented its economic development to exports for 50 years, yet the country remains underdeveloped. All the time, the well-being and human development of generations of workers have been sacrificed at the altar of illusory economic progress. While union repression and wage suppression have not led to the promised economic development, they have arguably resulted in profits for foreign investors. In addition, local politicians and government officials benefit financially from coddling labor rights violators in the EPZs.

The pandemic has not changed this tried-and-tested business model in the ecozones. If at all, it has made it worse since employers have weaponized the health crisis to bust unions and violate rights. Apart from the union-busting maneuvers unearthed at the Mactan ecozone, similar incidents have been reported in other ecozones in the industrial region of CALABARZON (the provinces of Cavite, Laguna, Batangas, and Quezon) and the province of Bataan. Thus, it is apparently a general trend.

Harassment by State Authorities

Hand in hand with employer union-busting has been the heavy-handed treatment by state security personnel of worker protests and the right to peaceful assembly. This is most clearly illustrated in the experience of First Glory workers. Protests erupted in the wake of the mass layoff of 300 workers on 27 November 2020, including the union president, almost all of the other union officers, and many union members.

The next day, 28 November, hundreds of affected workers went back to the company premises and demanded their reinstatement. They caught the attention of the local office of the Philippine Economic Zone Authority (PEZA), the government agency supervising ecozones. PEZA Labor Relations Officer Jun Doce invited the leaders of the terminated workers for a dialogue with a representative from the First Glory management. During the dialogue, workers conducted a peaceful protest outside the Mactan ecozone gate. Police officers from Lapu-Lapu City Police Station 5 arrived at the protest scene and ordered them to observe social distancing protocols. After half an hour, the police demanded that the protesters disperse because they allegedly violated such protocols. The protesters ended the program to avert any confrontation.

The demands of the First Glory workers for reinstatement were not resolved in the dialogue. Thus, to highlight their plight, on 30 November, the retrenched workers held another protest action. At around 8:30 A.M., the workers started to converge at the vicinity of Gate 3 of MEPZ. At 9:00 A.M., they started to march along the sidewalk in the direction of Gate 2 of MEPZ, while cautious of social distancing and health protocols. According to the labor organizer, numerous photos and video recordings bear out this fact.

While the workers were marching, a police car from Station 5 that was positioned at the ecozone's Gate 2 started to turn on its siren. Protesting workers continued to march towards Gate 2. Upon arriving there, the Station 5 police team headed by Captain Albert Jay Samson, through their public announcement (PA) system, ordered the protesting workers to disperse because the rally was allegedly illegal. Partido Manggagawa Regional Spokesperson and Sentro ng Mga Nagkakaisa at Progresibong Manggagawa⁵ Coordinator Dennis Derige approached the mobile patrol car to negotiate and explain to the police the objective of the protest. Within minutes of the attempted negotiations, a police officer attempted to arrest Derige and tried to handcuff him. This led to a commotion and scuffle with the protesting workers trying to secure Derige.

This narrative was corroborated by Cristito Pangan, union president of First Glory workers and a participant in the protest. He said, "We wanted to extend our complaints to the media so that it would reach those in power. We intended to conduct it during Bonifacio Day [30 November, a regular holiday in the Philippines]. While the rally was ongoing, the police stopped us. We pleaded for more minutes for the media to come and interview us, but they didn't allow us. We were arrested at that time." He actually referred to his colleagues since he was arrested only later while visiting the police precinct.

5 Center for United and Progressive Workers.

Another police officer, a certain Aringo, who was in plain clothes and with a gun, tried to grab Derige. He was apparently the one leading the police team in trying to arrest Derige and his companions. The police first arrested Joksan Branzuela, another labor organizer. After a few minutes, they took Derige and fellow organizer, Jonel Labrador. Next to be arrested was Myra Opada, a female union organizer and ecozone worker who was terminated for being union president. During the scuffle, Derige and Branzuela sustained bruises on their wrists and chests. Derige's shirt was torn as the police tried to grab him.

The arrested workers were all brought to Police Station 5. At the precinct, Aringo tried to harm Derige but was restrained by the other police officers. Aringo then turned his ire to the cell phones of the four organizers. Opada's left wrist sustained an injury because the police officer twisted her arm as he grabbed her cell phone.

Pangan, the union president, followed the four arrested at Police Station 5, and he too was arrested on the spot for the alleged violation of Lapu-Lapu City's "no quarantine pass" ordinance. At around 10:45 A.M., lawyer Stephanie Claros arrived at Station 5 and assisted the arrested labor organizers. She was able to negotiate the release of Opada and Pangan, although they were fined for alleged quarantine violations. Pangan recounted, "Five of us were arrested. All of us are labor organizers. Three of them were detained for one night. The two of us, Myra Opada and I, were released after payment of PHP 1,000 fine due to quarantine violations."

Derige, Labrador, and Branzuela were charged for resisting arrest, aside from violating the "no quarantine pass" ordinance. This meant they could not be immediately released and had to be charged in court for these offenses. After booking, the three were brought to the detention facility at Merkado, Barangay Poblacion, Lapu-Lapu City at around 6:00 P.M. According to the labor organizer, the conditions at the detention facility were inhumane and violated physical distancing protocols. Prison cells were overcrowded, with 16 people in a cell measuring three meters long and three meters wide. This stark reality exposes the hypocrisy of their arrest for the alleged crime of violating quarantine protocols and putting public health at risk due to a protest action. The three were finally released after two days as the charges were finally dismissed. Because of these unsafe prison conditions, they took swab tests, which were paid out of their own pocket, just to ensure that they tested nonreactive for COVID-19.

Article 3, Section 4 of the Philippine Constitution and its enabling laws guarantee the right to assemble freely and to be granted redress of grievances. Furthermore, the DOLE-PNP-PEZA Guidelines in the Conduct of PNP Personnel, Economic Zone Police and Security Guards, Company Security Guards, and Similar Personnel During Labor Disputes, issued in 2011, protect the right of workers in EPZs to engage in mass actions

arising from labor disputes. The Guidelines were strengthened in 2012, providing that public and private security personnel must not interfere with workers exercising their right to concerted action. The Guidelines also expand this prohibition to personnel of other government agencies such as the Armed Forces of the Philippines (AFP), civilian paramilitary units, the Department of National Defense (DND), the Department of Interior and Local Government (DILG), and the barangay ("village"), which is the lowest unit of governance.

It can be argued that restriction of the right to peaceful assembly is necessary since such activities entail mass gatherings that put public health at risk. Nonetheless, the wholesale prohibition of the right to peaceful assembly is tantamount to the denigration of this right. Mass gatherings can be limited in the interest of public order and safety. Even before the pandemic, reasonable limits on protests blocking or obstructing the flow of traffic in the streets may be considered legitimate. Yet again, the right to peaceful assembly cannot be prohibited entirely. Similarly, the effective prohibition of workers' protests during the pandemic subverts fundamental human rights.

In fact, the police have been slammed for their double standard on enforcing quarantine protocols. Just three days before the arrest of the MEPZ 5 and the dispersal of the First Glory workers' rally, Presidential Spokesperson Harry Roque spoke at a large gathering of people in the same province of Cebu without being cited for violating quarantine rules (Perez-Rubio 2020). Photographs of the incident clearly show a large crowd not practicing social distancing. A number of people were not wearing masks, and some children attended the gathering; quarantine rules prohibited minors from mass gatherings. This incident exposes the discriminatory implementation of quarantine rules by state authorities and security personnel.

The case of the MEPZ 5 and the presidential spokesperson merely repeats a pattern during the pandemic. The police harshly treated poor quarantine violators who are trying to earn an income during the lockdown. Meanwhile, so-called VIPs, like a senator and a controversial former social media influencer-turned government official were hardly given a slap on the wrist. The blatant discrimination was so scandalous that it provoked an open letter during the middle of the lockdown from a group of prominent businesspeople who are hardly known for speaking out in public on human rights issues.

Harassment by Company Management

Workers in the ecozone routinely face verbal harassment and other indignities at the hands of superiors in the workplace, the labor organizer acknowledged. These incidents

usually occur as part of management's desire to speed up production and meet quotas. Managers, supervisors, and even line leaders harangue rank-and-file workers, such as sewers and machine operators, who cannot reach the quota or are perceived to be slow at performing tasks. Workers claim that these superiors have a material interest in hitting the targets as they get a substantial financial incentive or production bonus. At times, harassment takes the form of physical abuse. Superiors would throw garments or phones at workers, especially when workers try to reason out from their perspective. Since not a single union with a collective bargaining agreement exists in the Mactan ecozone despite its 30 years in existence, workers have no voice in the workplace and no grievance machinery to resolve complaints.

Informant 1, who is from Globalwear, recounted an altercation with a certain manager after she returned to work at First Glory following the nationwide lockdown.

There was someone who replaced me for a while, and I don't know how the line works anymore because I was not there at that time. Then the manager scolded me and shouted at me . . . [quote redacted]. We made so much noise. He said I was the only in line who do not know, and I answered back . . . [quote redacted].

Informant 1 explained that later, the manager shouted at her "Just resign!" She was provoked to answer back. The intense argument finally led to physical abuse involving throwing an object. [Additional detail redacted].

It is not usual for workers to argue with and reason out to management personnel because most would rather take the indignity. Workers have no recourse for redress and are left to fend for themselves. Informant 1 explicated, "The HR [human resources] manager is of no use. When I wanted to complain, there is no one I could run to because our HR manager herself is not even sure."

Informant 5 related her experience in Metro Wear. "Even though we cannot afford to reach the quota they demand, they pressure us to do so. . . . They tell us to work faster because it is the time for shipping out, and if we cannot ship out on the exact date, they have to pay. But the real reason is for them to have incentives. They gain more money than the operators."

This account of pressuring Metro Wear workers for the quota is corroborated by Informant 6. "When you cannot reach the target . . . the management will pressure you even more." She mentioned a line leader, who, Informant 6 claims, is guilty of haranguing workers over the production quota. Clarifying that this continued even during the pandemic, Informant 6 added that "[the line leader] gotten even worse especially since the target has increased." She also related a story of the pressure on workers during audits.

We still have to deal with audits that involve memorizing different meanings such as WRP [warehouse replenishment planning] and WIP [warehouse inbound planning]. I do not know what those are. You have to multiply your output and how many repairs there are and then that's the result of your everyday—Oh god, I don't know what's going on. That's no longer part of our work.

She averred that workers get penalized for “wrong answers” during audits. “They will deduct your incentives. Depending on how much your incentives are every day, they will deduct 5 percent from that.”

The same pattern of harassment of workers in pursuit of productivity also happens in First Glory, as three of the four informants from the company attest. Informant 7 said, “We do not like the production manager's way of treating us because of his poor conduct. He has this behavior of shouting abruptly. In every move, he shouts. If you ask for permission to be absent, he will throw away the paper and shout. He had hurt many people. He is acting so proud of himself in the company.” The production manager is the same person alleged to be directing the union-busting efforts at First Glory.

Informant 8 related a very similar story, again about the same production manager.

[One of my experiences at First Glory] was when I broke [something]. I kept looking for it because I was scared, and then he shouted at me. I get nervous and tremble easily; that's what I feel due to my [medical condition] . . . What I am afraid of about him is his voice because he suddenly shouts, and I easily get startled. There was a time when I asked permission to go outside. He then suddenly shouted at me . . . [and] thumped the table. So, I refuse to get his signature. After that, I just bowed my head and shed tears. That's why I am afraid to approach him. Action should be taken so that he would regret what he has done. Others will not dare to do so.

Finally, Informant 9, another woman worker from First Glory like Informants 7 and 8, tells the following story:

My firsthand experience at work was that one day, the production manager suddenly approached me. He was walking around the Quality Control (QC) area and then the QC said, ‘Sir, where can we back job this?’ He said, ‘Scan whose name is that.’ Then it happened that the name which appeared was mine. . . . I was surprised that the sewn garment suddenly landed on my side. I was scared. Whenever I am sewing, I always bow my head. I said, ‘What is that?’ The production manager said, ‘That is your back job. You have

been sewing for a long time.’ His eyes widened. I was trembling. I didn’t understand what I felt that day. I could barely hold the trimmer I was holding. I forcefully struck my hand against the sewing machine to stop the tremor. Right after the abrupt throw, he then went to the front lobby. He paged my name, declaring that I was summoned by the HR. The production manager did not appear there to make clear why he threw me something. There I told the HR, ‘Why is he like that? He should have talked to me properly; why did he throw that thing at me. I do not even know why he did that.’ The HR said, ‘That’s what he . . . your back job.’ I said, ‘He should have looked at how many back jobs I have, Ma’am, because this back job is not mine. I just followed and stepped on the high-speed’ . . . After that, I cried a lot. The nurse tried to calm me down and told me to stop crying. She checked my blood pressure thrice. My blood pressure went up. She told me to just go home.

Women workers related all these incidents of verbal and physical harassment by the First Glory production manager. In contrast, Informant 10, a male worker, did not report any harassment at work. While not clarified in the KIIs, further investigation may uncover the gendered character of verbal harassment. Their stories made palpable the terror experienced by female workers. This emotion may unfortunately scar them for life.

Likewise, in all three factories, rank-and-file workers are harassed by their superiors. Evidently, verbal and physical harassment arises from their inferior economic status, on which grounds they are discriminated. Further, harassment is the worst form of discrimination, and it cannot be justified in any circumstance. Verbal and, sometimes, physical abuse infringes on their dignity as workers and as humans, and creates a humiliating and hostile working environment.

Suspension of Complaints Mechanism by the State

In the middle of the strict lockdown, the DOLE issued a department order (DO) suspending the dispute resolution mechanisms for workers. Dated 5 May 2020, DO 213, Series of 2020 is titled, “Prescribing Guidelines in the Prescription of Actions and the Suspension of Reglementary Periods to File Pleadings, Motions and Other Documents.”

Relevant parts of DO 213 read:

Section 5. Petition for Certification Election, Inter and Intra-Union Cases, Cases relative to Alien Employment Permits, Labor Standards Cases with Finality and Child Labor Cases:

- (a.) The filing of pleadings, motions and all other papers relative to above-mentioned cases is suspended for the duration of the community quarantine. Likewise, rendition of orders, judgments and resolution are suspended.

...

Section 6. Routine Inspection, Complaint Inspection and Occupational Safety and Health Investigation:

- (a.) All inspections are suspended for the duration of the community quarantine. Routine inspections shall continue to be suspended even after the lifting of the community quarantine.

Section 7: Labor Standard Cases:

- (a.) The period to comply in pending labor standards cases is suspended during the community quarantine.

In one stroke, this department order took away the mechanism for resolving workers' grievances outside enterprise-level negotiations between employees and employers. Since most companies in the Philippines are non-unionized, the DOLE dispute and complaint machinery is what most workers resort to in order to address their workplace grievances. In the light of widespread neglect, if not abuse, by employers during the pandemic, suspending the complaint resolution mechanism evidently favors companies and disadvantages workers. This State policy was clearly discriminatory against workers.

It can be surmised that the DOLE justified DO 213 as a preventive measure against COVID-19. These activities traditionally entail face-to-face interactions among government, worker, and employer representatives. But such reasoning flies in the face of adaptations such as online conferences and hearings. In fact, just two days after DO 213 was issued, on 7 May, the Civil Service Commission, which oversees the personnel of the government, promulgated Memorandum Circular (MC) 10, Series 2020. Titled "Revised Interim Guidelines for Alternative Work Arrangements and Support Mechanisms for Workers in the Government During the Period of State of National Emergency Due to COVID-19 Pandemic," MC 10 mandated that all government agencies, the DOLE included, institute alternative work arrangements to ensure delivery of public service even during the pandemic. Proposed alternative work arrangements include work-from-home, skeleton workforce, a four-day work week, and staggered working hours. One provision of MC 10 suggests that "agencies may use videoconferencing/teleconferencing in conducting meetings to minimize face-to-

face interaction.” The whole spirit of MC 10 is contrary to the letter of DO 213, which effectively shut down the State’s grievance resolution system for workers.

There is no way to know how many workers in the whole country were disadvantaged by DO 213. But the labor organizer says that in the Mactan ecozone, at least hundreds, if not thousands, probably wanted to file complaints. This estimate was based on the number of people who sought assistance through the social media accounts of labor organizations.

The labor movement in the country vigorously opposed and lobbied against DO 213. After months of lobbying, the DOLE finally repealed it on 14 August 2020 through DO 214, “Guidelines on Processes and Proceedings Before the Office of the Secretary of Labor and Employment, Bureaus and Regional Offices in Areas Under Community Quarantine.” DO 214 revived the dispute resolution and complaint mechanism that DO 213 had shut down. As Memorandum Circular (MC) 10 from the Civil Service Commission suggested three months earlier, Section 6b of DO 214 states that “conferences and other proceedings shall be conducted through the use of digital platforms, if available to all parties. In case digital platforms are unavailable, conferences and other proceedings may be conducted through conventional means while observing the prescribed minimum health standards and protocols.”

Thus, by August, workers finally had recourse to the redress of workplace grievances that had built up months into the pandemic. Among them were Informant 3 and dozens of her coworkers at Globalwear. However, the problem of ensuring the compliance of employers to the dispute resolution mechanism persisted, given the long period of its suspension. This is how Informant 3 related their experience. “[My colleague] convinced me to be at Lapu-Lapu [city where the Mactan ecozone is located] because we are going to NLRC [National Labor Relations Commission—the labor court]. Our group was composed of, more or less, 20 . . . But in the end, we were only 16 because our other colleagues had different reasons why they couldn’t come. We didn’t force them. We filed a case in NLRC, but they [company representatives] didn’t face us.”

Unfazed, they pursued the case to get paid for the days they were on intermittent forced leave. The problem for the workers then shifted to the labor court’s reluctance to prosecute the case. She recalled, “we were supposed to continue the NLRC, but their response is, ‘You are sent back to work already.’” After the promulgation of DO 214, the labor organizer also testified to the delays in the scheduling of hearings by the DOLE and NLRC, leaving workers both dejected and demoralized.

As can be gleaned from the information provided by the labor organizer and Informant 3, the State’s suspension of the complaint resolution mechanism harmed

the ability of workers to seek redress of grievances. It also gave employers free rein for labor abuse during the pandemic. While adapting government operations and delivery of services in consideration of health protocols was legitimate, the suspension of the workplace dispute resolution mechanism was unnecessary and thus discriminatory. Provisions for accommodation were possible, as spelled out in MC 10 and later admitted in DO 214. However, it took three months of suffering for workers who were left with no effective recourse, as well as determined lobbying by the labor movement, before the discriminatory state policy was replaced. And even then, the implementation of online conferences and hearings by the DOLE and NLRC was unsatisfactory, thus leaving many workers' complaints still unresolved.

The Lack of Aid from the Company and the State

The lockdown in Metro Manila, the center of economic activity in the Philippines, started on 16 March 2020 (Talabong 2020a). On 28 March, Cebu City implemented a similarly strict lockdown. Two days later, the whole province of Cebu, which includes Lapu-Lapu City where the Mactan ecozone is situated, was placed under the euphemistically called enhanced community quarantine (ECQ) (Abatayo 2020). The ECQ turned the lives of millions of people upside down. Millions too temporarily lost their jobs, except for medical and other frontliners who continued to work. Ecozone workers found themselves on forced leave without pay. Many of them were the sole breadwinners in their families.

The government rolled out assistance for the poorest families in the country, while the DOLE prepared a similar aid for displaced workers in small companies. Since the aid, or *ayuda* in Filipino, was not universal, it necessarily faced administrative problems in implementation. Likewise, it was by nature discriminatory since not all workers and the poor receive aid.

The government encouraged employers to provide support for their own employees. While some employers responded to the call, many did not. In fact, since it was not mandatory, most employers simply let go of their employees during the lockdown. This was the same pattern in the three factories covered by this report.

Informant 2 described the assistance that Globalwear workers received. "When the lockdown just started, I got 10 kilos of rice. . . . But there was a 13th-month pay. We were given money, but it would be deducted from our 13th-month pay. And there was another one, but it seemed like a PO [purchase order]. . . . Yes, considered as debt and paid last June." Her story corroborates what the labor organizer knew: Sports City workers were given ten kilograms of rice, an advance release of the mandated 13th-month pay, and a PHP 2,000 loan.

However, Informant 4, a worker from Metro Wear, said that “but when the company shut down, they gave us five kilos of rice each.” Similarly, Informant 5, also from Metro Wear, stated, “during the lockdown, I only received five kilos of rice. . . . There was only the 13th-month pay, the deduction, and the PhP 2,000 they lent. They slowly deducted it when we got back to work.” So apparently, ten kilos of rice were given to Globalwear workers, but only five kilos to those at Metro Wear, even though both factories were part of the Sports City group of companies.

After two months of the first lockdown, workers in Cebu’s export zone, who earned dollars for the economy, were allowed to return to work on 1 June. However, due to the lack of public transportation, only those who lived near the ecozone were able to go back. But according to information provided by workers at Sports City, work was not continuous because they were intermittently put on floating status every now and then.

For example, Informant 3 was trapped in the province when the lockdown was imposed, but she was finally able to go back to Lapu-Lapu City around June. But just as she was preparing to go back to work, she was told that workers were being put on furlough again. She said, “The [HR] assured me they’ll call after 15 days from the time I’ve called them. So, I waited for 15 days, and there was no call, so I followed up [with the HR]. . . . They just said the company was sorry for having nothing to give [as assistance].” In total, she was on forced leave for almost six months.

Informant 2 related her story about being on floating status. “[Sometime in July], they gave me a day off from work. They told me they would just text me when they would send me back, but they didn’t, so I was disappointed. Also, we haven’t received anything from the company, considering that I am just renting, and I have a baby to feed.” She was angry at the company for being on forced leave for four whole months—August to November—without receiving any aid.

Meanwhile, Informant 4 said, “The working condition had worsened when COVID-19 started, just like how many times our company has shut down with a no-work-no-pay policy. And we didn’t even get any help from them.”

As for Informant 5, she said, “No, when Metro Wear was put into lockdown because there was [a] positive [case], we stopped for 14 days. Within those days, we did not receive any aid from them.”

All of the workers interviewed concurred that as temporarily laid-off personnel, they did not receive assistance from the government. However, they related slightly varying stories of why they did not get such aid. For Informant 2,

The . . . manager said that the company is a big taxpayer. One of us asked and they said that Globalwear would not be given [assistance] due to it being a big taxpayer. Then allegedly, the company itself will provide us, but the company also depends on the Social Security System [SSS] . . . [Metro Wear Central Warehouse and] Vertex also received [assistance]. That's really our question, Ma'am: why did they receive when it should be Sports City as one?

Informant 3 said, “We even asked the HR supervisor why Globalwear’s sister company received help, and we didn’t. They said the company has already filed [an application for assistance], and they had many reasons.”

Informant 5 recalled,

I did not receive anything from DOLE CAMP [COVID-19 Adjustment Measures Program—the name for one form of aid for workers]. Our company did not avail of that because it was said the company is a large taxpayer . . . It is because Feeder seems to have fewer employees than Metrowear . . . They did not apply, and they did not even mention it. It was said that MEPZ was not included because we already received [assistance] from DOLE. But the truth is, we did not receive anything . . . We did not get any of the two. The management did not inform us why they did not avail [of DOLE CAMP aid], but they knew that SBWS [Small Business Wage Subsidy—the other form of cash assistance to workers] existed.

The labor organizer explained the discrepancy. Workers of the smaller Sports City firms—Vertex, Feeder, and Globalwear Warehouse—received aid, but employees of the bigger factories—Globalwear Manufacturing and Metro Wear—did not. The labor organizer cited reliable insider information that the discrepancy was not due to the size of the factory but an internal mistake on the part of management. The management never admitted that lapse on its part. Thus, the workers of Globalwear and Metro Wear did not receive aid from the state. Different stories got passed around to cover up the error.

The labor organizer revealed that the lack of aid from the State and the insufficient assistance from Sports City led to massive discontent among workers. This contributed to the willingness of workers to unionize. Union organizing at Sports City goes back several years before the pandemic, but it never took off. Apparently, the grave suffering of workers during the pandemic, and the fact that they were left to fend for themselves, decisively shifted their consciousness. It led to their recognizing unionism as a way to resolve workplace grievances.

How did workers survive with so little support from a giant company and without aid from the government? Informant 4 described her life.

It was really hard. I hardly had anything to eat. I only ate twice a day so that I could save money . . . I was indebted to my younger sibling. Instead of me sending money, my dad sent me money here. It was a turn of events. I wasn't able to go home because there weren't any trips back home at that time . . . If they really thought about their employees, there really is no need to ask [for help]—if they're really concerned for their employees.

According to Informant 5, "It was hard. Really hard . . . I borrowed [money] from the store. The one who lent me money was kind."

The policy of the government not to provide universal assistance is discriminatory. Still, the fact that priority was given to workers of small companies is legitimate, given the insufficiency of state funds and the fact that larger companies can provide for their own employees. However, the policy of merely encouraging, instead of mandating, large companies to grant aid to their employees failed because the government was unable to provide reasonable accommodations. The government should have mandated large, profit-generating companies to provide a similar form of assistance to their employees. In this way, all workers—whether in small or large companies—should have received much-needed aid during the pandemic.

Criteria for Mass Layoffs

All three companies implemented mass layoffs during the pandemic. Sports City as a group retrenched some 4,400 workers in September 2020. First Glory fired 300 workers in November. The right to fire is a prerogative of management, but the Philippine Labor Code imposes both substantive and procedural due process in termination cases. Retrenchment must have either authorized or just cause. Layoffs due to actual and impending losses—as during a pandemic—is a recognized authorized cause, according to Articles 298 [old number 283] and 292 [old number 277], paragraph (b) of the Labor Code.⁶ But aside from valid reasons, termination must be done properly. According to Article 298 [old number 283] of the Labor Code, the employer has to issue a written notice one month before the termination date.

In the case of the mass termination at the three factories, workers contested both the substance and manner of the layoffs. In First Glory, workers alleged that the retrenchment was done in bad faith, since it was motivated by union busting. The targets of the mass layoff were the identified union officers and members. The First Glory management was never able to substantiate its grounds for termination since its

main customer had already moved out of its bankruptcy status at the time of the mass layoff. Informant 10 explained,

The retrenchment happened on 27 November. [The employees] were called to a meeting in a conference room. In that meeting, they found out that it was their last day of duty in the company. They never got back to the production area, the management closed it, and they could no longer enter. They had fewer than eight hours of service on that day. What management did is an illegal retrenchment since there was no notice to retrench beforehand.

Informant 10 adds,

A wife and husband were terminated at the same time from First Glory Philippines. There were a lot of spouses that were retrenched simultaneously. About 15 couples were terminated due to the pandemic . . . The couple have [several] children still studying, [some] are in college. Losing a job really had an adverse impact. For him [the husband] [the employees] should build a union, an association so that our work would be protected.

In contrast, the “mother of all layoffs” at Sports City, affecting 25 percent of the workforce, was not motivated by union-busting. Still, the labor organizer questions the basis for massively reducing the number of workers while increasing the production quota for the remaining workforce. Apparently, the mass layoff was motivated not by averting business losses but by squeezing productivity out of workers.

The criteria for choosing workers to be laid off was also criticized. Sports City asserted that incurring 35 demerit points results in the termination of an employee’s contract. One of the FGD participants from Metro Wear was among those fired, since the management claimed that she had exceeded 35 demerit points. However, the worker claimed that she did not reach the 35-point limit and that closed-circuit television (CCTV) footage could prove this. Yet the company refused to accept her argument. The worker, along with scores of their colleagues, filed cases in the labor court.

Firing and hiring are legitimate prerogatives of management. However, the actual exercise of this prerogative by the three companies during the pandemic is discriminatory because it violates the rights of workers to substantive and procedural

6 The Department of Labor and Employment issued Department Advisory No. 1, series of 2015, renumbering a substantial number of provisions in the Labor Code. The older numbering is enclosed in brackets.

due process in termination issues. Bad faith, union-busting, and the lack of transparency tainted the layoffs. Workers have a right to participate in the proceedings for termination, especially since its impact is the loss of their livelihood. The management should have implemented a reasonable accommodation so that appeals by workers were heard. Instead, the management swiftly proceeded with terminations, despite aggrieved workers challenging them.

Place of Residence

The companies Globalwear and Metro Wear put workers on forced leave if they resided in villages that had reported COVID-19 cases. If an employee's neighborhood had COVID-19-positive individuals, he or she was instructed to immediately go home and isolate oneself for 14 days without pay. This is what happened to Informant 4 from Metro Wear.

When there was someone who tested positive even though I was far from that area, we were told that this might lead to the factory's shutdown, we were told not to go to work for 14 days, and we didn't receive any help from them . . . After 14 days, [we] had to submit a map from Google Maps . . . I just stayed in my . . . house, sulking and waiting for my 14-day quarantine to be over, so I can go to work again. I was deep in debt.

Informant 4 insisted that she should not have been put on furlough.

It was unfair since I was actually far from the area where there was someone who tested positive . . . That's why some people just lie . . . I know a lot of people who lied. They lied about their address . . . So, they can go to work. It was really hard that time. We didn't get paid unless we went on duty. I know a lot of people who lied, which had me thinking that maybe I should lie about my address as well, but it was already too late. They already made us write our address in our attendance.

In at least one case, an employee was asked to transfer to an area far from the positive cases to be able to continue working. This meant a temporary loss of jobs without any provision of aid. However, management personnel were treated differently. Workers state that management personnel were allowed to continue working without going through the quarantine period. And they did not get swabbed even though their residence was near a reported COVID-19 case.

Informant 5 had the same predicament. "If there is [someone who] tested positive in our area, we are not allowed to work. We are advised to go home, they did not even text us ahead of time that we are not allowed. They did not even refund our fare." She

also related a story that happened to her coworker. “[As for] my other colleague, if management knows that there is [someone] positive for COVID-19 in the area, you will be sent home immediately even if you already timed in. You will be asked to go home.”

Likewise, Informant 1 shared that

I was called because there was [someone] who tested positive in our area. We were confused because we were far away from the person who tested positive, and those who were living close to that person renting in a boarding house were not called . . . I told the HR, ‘Ma’am, we are far away, so why are we being sent home? Those who are near the person who tested positive for COVID, you didn’t send them home.’ The HR manager said, ‘You, Ma’am, you are like a brain of an operator. You should understand. You know I really get angry when [you are] comparing [your situation with others].’ I answered her back, ‘Why do you get angry? You are a manager, right? You are looking after the common good, right? It’s okay if we’ll be sent home, but what about those who are near, and we don’t know if they are already infected?’ She then said, ‘You shouldn’t be on duty because you have hypertension. If you go on duty, you will be the reason why Globalwear will be closed.’ I said, ‘Really? I’d be the reason for the closure, not you?’ Then we argued really badly, so I was called by her assistant. The assistant said, ‘Let us talk. Let me handle you.’ Right after that, she called the operator who’s renting in the boarding house [where a COVID-19 positive was reported].

This incident reveals petty arbitrariness and even workplace harassment in the way superiors treat workers amidst the pandemic.

The policy of furloughing employees residing in COVID-19 hotspots is discriminatory since it is applied differently to management personnel and rank-and-file workers. If workers are going to be furloughed due to their domiciles being in a COVID-19 hotspot, then reasonable accommodation must be made in the form of quarantine leave with pay. This way, workers are not disadvantaged by an otherwise legitimate concern to prevent infection. If not, workers have no choice but to lie about their health situation just so that they would not lose two weeks of pay.

Part of the problem is that the State did not mandate a quarantine leave to be charged either to the government or the employer. Section 7e of the DTI and DOLE Supplemental Guidelines provide that “[e]mployers are highly encouraged to provide sick leave benefits, medical insurance coverage, including supplemental pay allowance, for COVID 19 RT-PCR test-confirmed employees or close contacts made to undergo a 14-day quarantine.” The use of the words “highly encouraged,” instead of “mandated by law,” means that employers are given the leeway not to grant paid quarantine leave.

Becoming a Suspect COVID-19 Case

Section 7 of the DTI and DOLE Interim Guidelines provide that “employers may test workers for COVID-19. Testing kits used and procured shall be the responsibility of the employer.” This clearly means that employers must shoulder the cost of workers’ COVID-19 tests.

Despite this explicit government policy, the FGD unearthed that in Metro Wear, the worker who is a suspect COVID-19 case, not the company, shoulders the expenses for a swab or a rapid test. However, minimum-wage employees cannot afford to pay for expensive testing out of their pockets. This effectively denies the suspect-case employee of prior and appropriate treatment. This is the reason the Interim Guidelines put the burden of shouldering the costs of testing on the employer rather than the employee.

The policy in Metro Wear—workers paying for expenses of COVID-19 testing—violates state guidelines. The State policy of letting employers shoulder the costs is reasonable accommodation, since ordinary workers would be unduly burdened by the expense.

Forced Travel at Night

Among the measures implemented during the lockdown was the shutdown of public transportation. The main means of public transportation in the cities and towns are locally designed vehicles called jeepneys and tricycles. Along with buses and trains, they were totally shut down at the height of the ECQ (Enhanced Community Quarantine). This led to challenges for frontliners who needed to travel to work. The problem became even more acute when more workers were allowed to return to work, as did Mactan ecozone workers in June. With jeepneys still prohibited to operate, transportation were virtually nil. Workers had to walk long distances just to go to work and return home. This predicament became even more complicated when ecozone workers were forced to travel at night.

In Metro Wear, workers on night shift duty were not provided transportation. Most employees on the night shift had to walk because there was no available public transportation. This situation exposed them to criminal elements, apart from physical exhaustion, especially after heavy work due to the high target quota.

In First Glory, the problem of workers being forced to travel or walk at night during the pandemic is likewise directly linked to the problem of high production quotas. On the one hand, employees who cannot meet the quota are forced to work overtime. One FGD participant raised this issue because he was a victim of this policy. Employees

were forced to go home even before their eight-hour shift was over because they could not meet their targets. This also happened for workers on night-shift duty. Thus, they were forced to walk long distances since there was no public transportation. This put them at risk of being arrested for violating the curfew or being harassed, especially if they were women. Further, their wages suffered a cut because they had to work for fewer than eight hours.

Employees were forced to work overtime to hit the target production or to rush work because a shipment was due. Employers had the leverage because workers could not leave the factory even if they did not want to work overtime because they needed a gate pass to get home. Overtime work usually ends at 9:00 P.M. During the pandemic, the lack of public transportation and the curfew made it more difficult to get home after overtime.

Workers in Metro Wear also encountered this problem. Informant 5 vividly described her situation as part of the night shift.

I experienced the night shift myself. I go home at [dawn] . . . [quote redacted]. There were no passenger vehicles, so I need to walk. If they only provide shuttles to those [working] day shifts, they should schedule all the employees to day shift because it was so hard to find a passenger vehicle that can send you home, knowing they were limited and there was a curfew . . . [quote redacted] . . . The curfew is lifted at 5 o'clock. We had no choice but to walk; it was around June . . . We waited for our colleagues who also needed to go home so that we would walk together. It was difficult if I went home alone considering my situation. It was okay if there was overtime because we can go home in the morning, but there was none so it was really hard.

Another worker who did night shift duty was Informant 6. She said, "We would just walk home from the company [after duty]." She related how she argued with a manager about the travails of workers on the night shift. "You are prioritizing shipments more. You are not thinking about how your employees have been walking long distances to get home from work."

The policy of forcing workers to travel or, worse, to walk home at night or early morning without reasonable accommodation, unduly disadvantages them and puts them at high risk. They could be harassed, robbed, or arrested for walking or commuting during curfew hours. Reasonable accommodation dictates that shuttle services be provided by the company or that night shifts be abolished altogether during lockdowns.

However, the problem of forced travel at night is also tied to the issue of high production quotas. Workers are either forced to render undertime or overtime due to the management's drive to reach the targets. The generally negative situation of workers were magnified during the pandemic and the lockdown. Clearly, unjust practices must stop.

Provision of Shuttle Service

The provision of shuttle service for workers is one form of reasonable accommodation for frontline economic workers, such as ecozone personnel who were allowed to work despite the lockdown. However, participants in the FGDs and KIIs testified that there was discrimination even in company-provided transportation.

At both Metro Wear and Globalwear, the shuttle would fetch workers living in far-off places. However, shuttle services were not available for those living near the ecozone, even though there was no available transportation for everyone, especially for night-shift workers. Globalwear employees who wanted to ride a shuttle needed to pay PHP 160. This is exorbitant, given that the minimum wage for ecozone workers is pegged at PHP 404. Talking about the shuttle service, Informant 5 insisted, "They only gave the privilege to those employees living far away from work. It should be fair because everyone is affected."

The provision of shuttle services for only a section of the workers is discriminatory behavior. It does not have a legitimate basis, given the lack of public transportation as its context. Because workers living near the ecozone cannot be serviced by the shuttle or have to pay an exorbitant fare, they are forced to walk.

Theft of Workers' Benefits

Among the usual labor violations in the Philippines are the nonremittance of wage deductions for social security and the nonpayment of employers' contributions (Partido Manggagawa 2010). Both workers and employers contribute to the Social Security Fund that pays for, say, pensions and housing loans. It is the task of any company to automatically deduct workers' share from their wages and then remit both workers' and employer's contributions to the Social Security Fund. However, misbehaving employers do not comply; in doing so, they directly steal both the workers' and even their own contributions. Worse, this form of wage theft effectively denies workers the opportunity to avail of social security programs and services, since they do not have updated contributions through no fault of their own. This issue is detrimental enough in ordinary times, but it has become even more damaging during the pandemic.

The issue of unremitted/outdated contributions surfaced among First Glory workers in an FGD. The discussion indicates that management had been negligent, resulting in the denial of salary loans or calamity loans, which were most needed during the pandemic. Employees on forced leave could not avail of loans because they were tagged “delinquent” in status, even when their pay slips indicated the deduction of Social Security System (SSS) contributions. First Glory should remit these deductions soon. But even if they do so, the workers have already lost the opportunity to avail of emergency loans during the pandemic.

Informant 5 also related a similar issue on maternity benefits involving Metro Wear management. She was around a few months pregnant at the start of the Cebu lockdown in late March.

It [maternity benefit] should be in the form of a check and should not be issued to BDO [a local bank]. It must be in SSS LandBank [LandBank is a government-owned bank]. I think they took some of it. I want to inquire if I could go to SSS and ask how I can actually get my maternity . . . The question is, why did they take something from the maternity benefit? Why do they meddle in it? . . . That’s what happened to my colleague. [Several thousand pesos] [quote redacted] . . . was the amount taken from her maternity. [I received only the first half of the maternity benefit.] [Quote redacted.] I badly wanted to inquire. I wanted to process my maternity benefit on my own in the SSS, but they won’t allow me because the company must do it.

The nonremittance of workers’ SSS benefits and the reduction of maternity assistance violate the Social Security Act of 1997 (Section 28) and the Expanded Maternity Leave Law of 2019 (Section 18). Assuming that these actions are unintentional, the companies failed to provide reasonable accommodation during the pandemic. These actions had a damaging consequence for workers—the denial of assistance that they badly needed to avail in a situation when they had no work and income.

Policy Recommendations for Remediating COVID-Related Discrimination

Equality and nondiscrimination in the Philippines remain ideals that are accepted in principle but are wanting in implementation and enforcement. A similar situation, however, might probably be happening in some other countries.

The Constitution of the Philippines has no specific provision for equality and nondiscrimination. Nonetheless, the Bill of Rights in the Constitution (Article 3) lays down particulars of equality before the law. Article 13, entitled “Social Justice and Human Rights,” details rights accorded to social groups such as labor, farmers, women,

indigenous peoples, and persons with disability. Still, actually enforcing the provisions of what is considered the supreme law of the land requires enabling laws. If not, the Supreme Court must interpret constitutional questions, and its decisions become jurisprudence. A series of recent laws, for example, have enacted specific rights for women generally (Republic Act No. 9710, The Magna Carta of Women) and for women workers specifically. Another new law prohibits age discrimination in employment, Republic Act No. 10911, The Anti-Age Discrimination in Employment Act.

The Philippines has also ratified the most important international conventions such as the Convention on Civil and Political Rights; Convention on Economic, Social and Cultural Rights; Convention on the Elimination of Racial Discrimination; Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); Convention Against Torture; Convention on the Rights of the Child; and the Convention on the Rights of the Disabled.

The Philippines also ratified eight fundamental International Labour Organization (ILO) conventions. In total, the country has ratified 38 ILO conventions, of which 31 are still in force (ILO n.d.-a). This compares well with other similarly placed nations in Southeast Asia. For example, Indonesia has only ratified 20 ILO conventions, of which 19 are in force (ILO n.d.-b).

However, the implementation of these numerous international conventions relating to human rights in general and specifically on labor rights remains problematic. The United Nations (UN) and the ILO have pending critical observations on the enforcement of these binding conventions, whether in law or in practice.

To cite one particular concern, the ILO Committee on Standards recommended sending a High-Level Mission to investigate complaints of violations of Conventions 87 and 98 on the freedom of association and the right to unionize and bargain collectively. This recent recommendation arose in 2019, just days after the killing of Dennis Sequeña, a union organizer of the group Partido Manggagawa in the export processing zones of Cavite (Jaymalin and Dumlao 2019). To this day, local labor organizations are lobbying the DOLE to allow the entry of the High-Level Mission. It is important to note that reports of killings of trade unionists and labor activists occasioned an earlier ILO High-Level Mission to the Philippines in 2009.

Labor rights are thus a contested terrain for enforcement in the Philippines. The International Trade Union Confederation (2022, 35) frequently ranks the country among the “ten worst countries for workers,” citing violations of labor rights.⁷ Studies

repeatedly find the export processing zones of the country as areas where there are deficits of decent work, as well as the repression of the right to unionize (Edralin 2001; Ofreneo et al. 2007; US Department of State 2009; Certeza et al. 2012).

Indeed, the stories detailed in the FGDs and KIIs of workers, with many of those being women and victims of COVID-19-related discrimination, fall into a long line of research, academic and otherwise, that documents these violations of labor rights.

Of the 13 kinds of discrimination identified in the FGDs and KIIs, protected groups experience discrimination on the grounds of pregnancy, health status, political or other opinions, and economic status. In terms of scope, both the State and employers are bound by the stipulation against nondiscrimination. In the Philippines, the employment relationship is not treated as a private concern but is instead vested with public interest and is thus heavily regulated by law. Therefore, the workplace is thus a valid arena for asserting the nondiscrimination of workers by both agents of the State and the employer.

Discrimination against pregnant women is prohibited in the Convention on the Elimination of All Forms of Discrimination Against Women. Article 11 (2) of CEDAW mandates that governments prevent employment-based discrimination against pregnant women. However, the DTI and DOLE Interim and Supplemental Guidelines discriminate against women with high-risk pregnancies. Citing health concerns, the State encourages employers to provide reasonable accommodation to employees who have a high risk of contracting COVID-19. However, female factory workers cannot work from home. Therefore, the State indirectly discriminates against pregnant women. Employers have gone one step further by directly discriminating against all of them, irrespective of term and status as low or high-risk. They also have not provided reasonable accommodation, such as paid quarantine leave for pregnant women who were not allowed to work.

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) warrants that states protect people from discrimination in the exercise of human rights. Article 2, paragraph (2) prohibits discrimination on the grounds of “other status.” As such, this clause covers health status. Thus, putting hypertensive workers on unpaid forced leave is a form of direct discrimination. Although having hypertension puts a worker at risk of infection and prioritizing public health is paramount in

7 The “ten worst countries for workers” for 2022 are Bangladesh, Belarus, Brazil, Colombia, Egypt, Eswatini, Guatemala, Myanmar, the Philippines, and Turkey (International Trade Union Confederation 2022).

responding to the pandemic, both the State and employers failed to provide reasonable accommodation for hypertensive workers. Granting them paid leave could have helped address the discrimination that they experience. The State, the employers, or both of them should shoulder the costs of paid leaves for hypertensive and pregnant employees.

Workers who support unionization and exercise their freedom of association are discriminated against on the grounds of their political opinions and beliefs. Article 2, Paragraph (1) and Article 26 of the International Covenant on Civil and Political Rights, as well as Article 2, paragraph (2) of ICESCR, prohibit discrimination on the grounds of “political and other opinion.” Likewise, ILO Conventions 87 and 98 explicitly protect the workers’ freedom of association and right to unionize. Yet workers in the ecozones, who in word and deed espoused unionism, were harassed and/or fired. While the transgression of the right to unionize occurs even without the pandemic, in the case at hand, the explicit alibi for union-busting was COVID-19-related. Citing “health concerns,” companies did not allow their workers to hold elections as an exercise of their freedom of association. They also claimed that they incurred losses because their clients filed for bankruptcy during the pandemic. Evidently, misbehaving employers are using COVID-19 to discriminate against workers exercising their fundamental right to unionize and demand improved working conditions.

Apart from the cases of explicit harassment of workers either by the State or by employer representatives, the rest of the types of discrimination emanate from the ground of economic status. This falls under Article 2, paragraph (2) of the ICESCR, which prohibits discrimination based on “other status.” The experiences of discrimination resulting from the following—suspension of the complaints mechanism by the State; the lack of aid from the company and the State; the criteria for mass layoffs; the place of residence; becoming a suspect COVID-19 case; forced travel at night; the unavailability of shuttle service for workers, and nonremittance of workers’ contributions. All these emanate from their economic status as subordinate to the employer.

There is a self-evident power imbalance between the employee and the employer. This imbalance means that an individual worker cannot bargain on a level playing field with the employer. Thus, workers might be subject to numerous types of discrimination simply because of their lower economic status, lack of bargaining power, and absence of voice in the workplace. On a macrolevel, workers also find themselves at the bottom of the social pyramid. Their economic status makes them powerless against the State’s discriminatory policies that favor employers over workers.

The perpetrators of discrimination on the ground of workers’ economic status can be the State or the employer. The State is evidently the party responsible for the

suspension of the complaints mechanism and the lack of aid from the government. Even the lack of aid by companies to their workers arose from a policy by the State of not mandating large companies to support their employees. This loophole led to the discrimination of workers of large companies; no provision of cash assistance for the temporarily displaced was forthcoming.

In contrast, the employer is responsible for other types of discrimination: the criteria for mass layoffs, the place of residence, becoming a suspect COVID-19 case; forced travel at night, the unavailability of shuttle service for some workers, and the theft of workers' contributions. Employers treated workers who resided in infection hotspots differently from management personnel in the same situation. Employers directly discriminated against workers who were suspect cases by not shouldering the costs of testing, as the law mandates. They did not provide reasonable accommodation for employees who were forced to travel at night due to forced undertime or overtime work, who were not provided with shuttle services, or who were unable to access benefits due to negligence.

Finally, the harassment suffered by workers at the hands of State and employer representatives cannot be rationalized in any way. Harassment causes employees to lose their dignity. The participants' narratives reveal that even during the pandemic, management personnel continued to harass workers in the form of verbal and physical abuse.

Female workers also potentially suffer from multiple or intersectional discrimination. They are discriminated against both for being women and for being workers. The fact that only female respondents related stories of harassment at the hands of their male superiors strongly suggests multiple or intersectional discrimination. Further study should be undertaken to validate this phenomenon.

Furthermore, agents of the State harassed workers exercising their right to peaceful assembly and redress of grievances. The arrest of labor organizers and the dispersal of a workers' rally were rationalized as an implementation of health protocols. The double standard in the State's enforcement of quarantine rules, however, is obvious in the Philippine context.

Discrimination cannot be allowed to persist and must be remediated. The redress of discrimination can be both at the level of the individual victim, in the form of damages, or at the level of the collective workers. Thus, employers, as the responsible party, should compensate employees accordingly by shouldering their benefits. Also, workers who were verbally harassed or physically abused should be awarded damages for the loss of dignity and emotional suffering. Individual perpetrators of workplace abuse must also apologize to their victims.

The following recommendations are systemic and aim to prevent future discrimination:

- (1.) Provide paid quarantine leave for pregnant and hypertensive workers. The State can shoulder it to ensure provision to all beneficiaries and ease of administration. However, funds for such must be sourced from progressive taxation. In this light, the Corporate Recovery and Tax Incentives for Enterprises Act (CREATE, Republic Act No. 11534), which lowers corporate income taxes, should be scrapped.
- (2.) Grant universal basic income for all Filipinos during the pandemic and guarantee jobs for the unemployed. These measures will eliminate discrimination in providing assistance and will even be easier to administer. Further, putting cash in the hands of the population will jumpstart the recovery of the economy on the basis of wealth redistribution. Wealth tax on the richest Filipinos can be a source of funds for such an economic recovery program. The labor coalition Nagkaisa has proposed a wealth tax in its pandemic recovery proposal (Serrano et al. 2020). Other organizations have similar proposals. A wealth tax deserves to be enacted.
- (3.) Promote unionism, especially in the export processing zones, as the principal means to shift the power imbalance between employees and employers. Unions provide voice and representation to workers. Through collective bargaining, they help improve employees' wages and working conditions. Tripartite councils should be formed to include unions as workers' representatives within all ecozones, as provided by law.
- (4.) Enforce the 2011 and 2012 DOLE–PNP–PEZA Guidelines on the conduct of security personnel during labor disputes. Disseminate these guidelines to the ranks of security personnel. Amend the guidelines in consultation with labor organizations and in light of the experiences of workers a decade since its promulgation. Withdraw recently formed PEZA and PNP Joint Industrial Peace Concern Office, later renamed Alliance for Industrial Peace and Program Office or AIPPO, which mandates the posting of police personnel within ecozones.
- (5.) Prosecute and punish state security personnel who violate the law, such as the right to peaceful assembly of workers. This is crucial to breaking the pattern of impunity. Superiors must be held responsible for the actions of their subordinates. Among the penalties could be loss of pensions and other benefits for government security personnel who are found guilty of such administrative cases.
- (6.) Restore DOLE and NLRC's complaints services fully and immediately. They must act upon the complaints of workers arising during the pandemic within a reasonable time and without delay.

- (7.) Engage the European Union on the implementation of the Generalized Scheme of Preferences Plus (GSP+) provisions on the enforcement of international conventions, to which the Philippine government is a signatory. Tie incentives of foreign investors in export processing zones to the respect for freedom of association and workers' rights. The ILO Direct Contacts Mission to the Philippines (2017) also recommended this action.
- (8.) Revoke the alien employment permits of management personnel who are charged and found guilty of verbal and physical abuse of workers. This is already provided for in Section 11 of DOLE DO 221, series of 2021, or the "Revised Rules and Regulations for the Issuance of Employment Permits to Foreign Nationals." However, this provision remains unenforced.
- (9.) Mandate employers to provide shuttle services to workers while public transportation has not fully resumed. Reopen public transportation routes through the return of jeepneys. Withdraw the government's plan to gentrify the jeepney system, which will displace thousands of drivers and small operators. Demand that the government support a just transition of the jeepney sector.
- (10.) Enact a Comprehensive Anti-discrimination Law. This proposed legislation seeks to prohibit discrimination on all the grounds recognized in international law.

These recommendations are a mere affirmation of various proposals that have been forwarded by workers' organizations such as Partido Manggagawa, the labor coalition Nagkaisa, and the human rights group, Philippine Alliance of Human Rights Advocates. Up to this time, these proposals have fallen on deaf ears of duty bearers like the State and employers. It is high time for claims holders, such as workers in the ecozones, to exercise their agency and advocate for their demands. Ensuring that their demands are reasonable is not enough. It is also necessary that workers fight for their demands so that they are enforced.

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