Reform of Philippine Labor Policies[1]

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Introduction

Philippine economic underperformance relative to that of its high-growth East Asian neighbors is a known fact. There are many causes of this underperformance, and labor policies are partly responsible. Over time, our labor policies mimicked the labor standards of countries that are more advanced than warranted by our country's existing labor conditions and state of economic development. This discouraged the growth of labor-using industries that helped to channel the development path of these neighbors.

My life's work is not on labor issues. But I consider successful economic development as one in which the country's laboring citizens experience a path of rising wages along with growing (labor) productivity. As the economy undergoes expansion, the logic is simple: the demand for labor outstrips its own supply. The increased scarcity of labor raises the demand for the application of more innovation and capital in production activities that induce labor toward higher productivity. This evolution in the work place is what makes labor achieve higher wages, improved working conditions, and a better standard of living.

Of course, this statement is true only if there is no pre-existing large supply of unemployment that slows down the path toward labor scarcity. When the economy does not grow fast enough and the labor force is further swamped by new additions by high population growth, unemployment and underemployment become persistent problems. Under such situations, an apparent surplus of labor sustains itself.

In 2010 our population of 94.7 million had a labor force of 60.7 million workers. Statistics say that the unemployment rate was only 6.9 percent. But there were 17.7 percent of under-employed. If we add these two groups of underutilized laborers, they comprise more than one-fourth of the total labor force. This has been the setup for years. The numbers are staggering for employment creation over the years.

There are many impediments that have contributed to this slow problem. Some writers have called this phenomenon the "Philippine conundrum" (Balisacan and Hill 2003). My explanation for this puzzle is the unfortunate mix of economic policy instruments and the prevalence of economic institutions that have slowed down the path toward economic competitiveness. This statement applies as well to the nature of labor policies that have been adopted. We have not done badly in development, but we have not done very well either.

The lecture is divided into five parts.

At the outset, the first part discusses Philippine economic underperformance in the context of general policies and the role played by labor policies. The second part reviews the evolution of Philippine labor laws briefly. The third part analyzes the consequences of the labor policies on employment and economic performance. The fourth part discusses the desirable directions of labor reforms. The fifth and final part suggests how we might correct the problems posed by labor policies. The key reform provides a link between wage income and labor productivity, and is more suited to the existing labor conditions of impoverished regions of the country.

Philippine Economic Performance and Labor Laws

Many factors account for the economic underperformance of our country. It took us long to liberalize aspects of the economy from high industrial protection and restrictive economic policies. Today we are still hampered by the inability of the country to deal with the "original sin" of Philippine development. (I have referred to the restrictive provisions in the Philippine constitution—a project that today is still in the agenda of the Philippine Congress to amend—as the "original sin," which was implanted in our development thinking way back in 1935 and has set back our ability to attract foreign direct investments.)

Different factors account for the outcome of a gross domestic product (GDP) growth of just *under* 5 percent per year (our long term historic performance) compared to that achieved by some of our neighbors, which have been at the higher end of 7-8 percent per year of sustained growth over the same period.

The East and Southeast Asia countries have also achieved a significant fall in their population growth rates. High growth and slowing population growth are not unrelated phenomena, but they can have a disconcerting impact if a country achieves the opposite of low growth and high population growth, which is our experience. Our population growth rate has remained steady at around 2 percent per year. Thus the "economic progress distance" between us and our successful neighbors is widening. Per capita growth arithmetic[2] tells us that our neighbors have gained over us at least a 2 percent per year growth of output per head as a result of differential population growth rates over the same period.

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The factors that are associated with economic performance are many: political instability, macro-fundamentals (or episodes of boom and bust of macro-economic conditions), corruption, and political instability. Each of our neighbors has experienced its own unique problems along these routes. But each has managed to pursue policies that enabled it to move its industries toward a high level of competitiveness and economic efficiency. Labor policies are an important element of tapping into their most important resource, and they succeeded in maximizing their effectiveness in doing this.

Labor market policies are therefore connected with these economic outcomes. Labor policies helped to determine the industries that investors chose to get into. Our neighbors exploited theirs by first exploiting the markets for textiles, garments, shoes, and other products at the beginning. Their labor policies assisted in this accomplishment.

Labor policies tend to be similar across countries on a number of counts. The similarity can be found in the adoption of social security legislation, work-hour limitations as well as the observance of holidays and over-time pay, and regulations related to worker safety and workmen's compensation. In this there is no doubt that membership in the ILO (International Labor Organization) helped to influence the crafting of the social policies that resulted.

However, there are dissimilarities that mark Philippine labor policies. One difference is in the minimum wage, which is biased upwards due to the use of a living wage concept that is unrelated to the productivity of the employed worker. Other policies take the form of directives that make it difficult for employers to expand or adjust their labor force easily. Such rules and processes are discussed elsewhere, and they cover the hiring and firing of workers, the contracting process of hiring, regularization of appointments, and so on. There is an inordinate amount of interaction with the labor bureaucracy.

On the surface, such efforts are justified to promote labor's welfare. But they set up high barriers against the enlargement of employment. They create a chasm between employed and unemployed workers. The net impact is less economic security for the bulk of those who are unable to find sustained income and employment.

Nature and Evolution of Labor Policies

Labor policies were designed to protect and enhance the welfare of labor. They represent the humane development of social policies that most societies want so as to impart the benefits of progress for their citizens. As such, they are supposed to improve the welfare of labor.

In our country they grew as a result of the concern to uplift the conditions of the laboring poor. This evolution of labor policies began even before the country gained its independence. Under colonial rule many policies on labor followed those that were being developed in the United States. The Great Depression, which began in 1929 and continued throughout the 1930s, had a great influence on the direction of social policy in that country. Those policies also had an impact on a new Commonwealth government that took over the domestic policies of our country after 1936.

That was also the period when we began to hold the reins of determining our national destiny as a nation. We took in major principles that emanated from that period. But most of the major labor welfare policies were instituted during the period of independence.

This began in 1952 with the introduction of minimum wage legislation. It came from outside as a result of the recommendation of the Bell Economic Mission, which was an aid mission of the US government to assist the country adjust toward economic independence, especially in line with the provisions of the 20-year economic adjustment after independence. The mission recommended the basis of the wage-setting system. The acceptance of this recommendation led to a two-tiered policy of national minimum wage: one for rural areas, essentially applied to agricultural industries, and another for the urban and most advanced regions of the country.

Being a member of the ILO, over time the country's labor standards further developed in sophistication. The legal framework of Philippine labor laws approached those obtaining in industrialized economies. The labor laws and regulations began copying the standards for employed labor in the more industrially advanced countries that set a structural gap between the country's large labor market and the country's inadequate demand for labor.

Labor policies are designed to promote the welfare of labor. They cover those aspects of employment that determine wage setting (including overtime pay and security of tenure), social security protection, regulation of working conditions, provision of holidays, and protection of labor in the labor contracting phase.

Some of these policies instantly advanced labor protection and welfare. Some of the labor laws added new costs to the employment of labor. Social security legislation and the Pag-IBIG contributions have the features of labor taxation. But they also carry consequent social benefits, such as social insurance, housing, and financial savings to the community, which help to raise the country's savings rate.

Other labor policies provide additional costs and requirements for the employment of labor. They may be justified on social grounds. But it is also true that in such cases, the benefits gained are mainly for those working in the formal sector. In effect, they raise the wage bar for those who seek employment even at

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lower wages, which take the form of laws, decrees, regulations, or directives. They do not arise as a result of management-labor bargaining or as an outcome of market-driven forces. Examples of such policies include the laws on minimum wage, overtime pay, bonus, eight-hour work, Blue Sunday, public holidays, regularization of employment, hiring and firing from employment, overtime and pay separation, the employment of children and of women, and so on.

Among larger companies with a big labor force and whose entry wage rates are higher than the mandated minimum, labor benefits are negotiated with management through the collective bargaining process. This is the ideal setup where market conditions as well as social and other norms dictate what labor welfare benefits could be obtained.

The resulting labor laws and regulations represented impositions on employers. They introduced rigidities in the flexibility of firms in dealing with employment, on hiring and contracting, as well as disciplining erring workers. With enterprises, the penalties of inefficiencies are loss of profits and even loss of business. In the case of workers, the penalties of inefficiencies involve costly processes involving proof of poor performance before regulators and magistrates.

Progress cannot be legislated: firms and people have to do the work within the cost of the resources that they employ. Firms and employees make adjustments that happen in the work place through the experience of long-term employment.

The state has too many directive (interventionist would be a more appropriate term) policies regarding a number of labor market issues:

- Minimum wages are often set too high. The wage rate is considered as the source of safety net or income provision for the family through the concept of a living wage.

- A policy on bonuses has become a forced permanent yearly pay. We copied a productivity bonus and turned it into a labor entitlement.
- Terms of employment: regularization of pay and employment.
- Contract terms of employment are rigid as to firing and hiring.
- The Department of Labor and Employment (DOLE) and the labor institutions around it operate in interventionist mode more than as institutions managing a neutral turf.
- They generally penalize domestic employers that are highly challenged by (a) low-scale operations and (b) limited size.

The minimum wage law was recently the subject of review of a World Bank study, along with other minimum wage laws in Southeast Asia. Below are the salient points made by that study about the Philippine minimum wage law:

- It is very complex to administer.
  - There are 200 different minimum wages from different regional wage administrations.
  - It is one of the highest minimum wages in the world. The minimum wage is 70 percent of the value-added (VA) per head average in the country. (VA per head is analogous to GDP per capita.)
    - Of around 42 countries monitored for their ratio to the VA per head, the Philippine wage rate is the highest!
      - The corresponding ratios for some developed countries are as follows as percent of VA per head:
        - UK 33 percent, Japan 28 percent, Germany 22 percent, US 22 percent.
      - For Asian neighbors, including those in the Association of Southeast Asian Nations (ASEAN), the corresponding VA per head of the minimum wage are:
        - Taiwan 25 percent, South Korea 24 percent, Thailand 17 percent, Indonesia 38 percent, Vietnam 33 percent.

- There are many exemptions from the minimum wage: *all in all, less than 20 percent of the employed laborers are exempt from the minimum wage.*
  - Exempt firms are those with less than 10 workers, those in the first three years of operations, those in economic difficulties, those that suffer from natural disasters, and those firms that are worker-owned.

Consequences of Labor Policies

Labor policies are designed to raise the economic welfare of the working man. This is best achieved by providing the worker a steady source of employment. When the policy protecting the employed becomes a barrier for the creation of greater employment, some policy mismatch happens: the objectives fail the outcomes test. In the Philippine case, this appears to be the case. Why?

The absorption of labor has been inadequate, resulting in a kind of excess labor in the ranks of the active labor force. Domestic unemployment is high. So is the persistence of underemployment. Although labor force statistics often state the unemployment rate to be in the order of around 10 percent of the labor force, in reality the level of underemployment and the amount of people employed in the informal sector of the Philippine economy says that around 25 percent of the labor force could be suffering from some degree of full-time equivalent unemployment. This means that a great part of the labor force works under conditions that are below the full-time equivalent of employment. This indicates a labor surplus economy.

This high incidence of unemployment in the country is a major cause of the presence of hovels of poverty in urban and rural areas. There is high dependence of poor people, who have few employment opportunities, on the few who have employment. It explains the presence of a large informal market, the growth of squatter communities, and quite a number of attendant problems of homelessness, joblessness, and insecure futures.

There are two distinct consequences of the underperformance of the economy. The limited opportunities for employment as well as the implied lower future prospects of labor at home led many Filipino workers to seek employment abroad.

This is our OFW (overseas Filipino worker) phenomenon. This migration brought an unexpected result. It led to the growth of remittances as a source of income to support Filipino families dependent on the incomes of OFWs as well as a steady source of foreign income that has strengthened the country's balance of payments. This was a consequence of poor employment generation at home, partly occasioned by the stringent standards of Philippine labor market policies.

The second typical outcome was for firms to adjust to the rigid requirements of regularization and contracting rigidities by directly reducing their labor employment. This led to the undertaking of alternative forms of organization, including the outsourcing of labor requirements. The result is the high prevalence of outsourcing of labor supply, of types of production activities that depend on other providers, leading to the breakup of more integrated operations, and, of course, the reduction of the employment rosters of firms.

A third outcome is the transfer of some established companies to other countries where production costs are cheaper. This is another example of a perverse outcome. In the case of foreign direct investments that for years had been operating in the country, this transfer of production facilities was not unexpected. Their share in the Philippine market depended on their domestic location in the country to override the high domestic protection problem.

A less expected outcome is that of Philippine companies setting up manufacturing facilities in low-cost countries, like China and some ASEAN neighbors, and importing their produce back for sale at home. Once economic liberalization of trade and industry had been adopted as a national policy with the country's entry into the World Trade Organization (WTO), and especially as a consequence of the ASEAN Free Trade Area enlarging the ASEAN economic market to a wider group of countries, it made sense to locate in the countries that offered the best manufacturing production costs.

The growth of the BPO (back office business processing operations) industry is a natural outcome of an advantage in the presence of skilled labor at reasonably low cost. It is a comparative advantage that is unrelated to existing protective wage policies. In this industry, the minimum wage is irrelevant because the starting wages of BPO centers exceed the minimum wage.

The BPO industry grew spectacularly during the last decade, and is still growing. The minimum wage, no matter how high they have been set to protect the common laborer, could not apply to the entry wage of the highly educated, skilled worker that was desired for jobs in this industry. Workers in the industry were mainly college-educated, some with highly professional qualifications.

The average entering wage for the BPO industry is not regulated. With the high growth of BPO centers—call centers, initially—the employment of young, college-educated workers has risen, and wages in this industry have risen for the average worker as the supply of workers with the required skill set has become scarce.

Imagine what would have happened to employment creation if the minimum wage had not been set so high as to make it difficult for good semi-skilled workers and many others with lower skills to find work. The country would have been able to provide manpower to many industries, with a lot of labor finding secure employment. (But this problem then also takes us to the heart of other economic policies that have troubled our country—the restrictive, nationalistic, and highly-regulated industrial promotion policies.)

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Domestic labor subcontracting or outsourcing was a typical reaction of larger business enterprises with large labor requirements to reduce their direct labor costs. I have referred to these adjustments—OFWs and the growth of labor subcontracting—as indirect "successes" of Philippine labor policies. It is a backhanded commentary on the failure of the labor policies to sustain the welfare of Philippine labor at home.[3]

Three studies are relevant in this discussion of consequences of labor policies. One study at the Asian Development Bank examined labor productivity among the large ASEAN neighbors—Indonesia, Malaysia, Philippines, Thailand, and Vietnam. During the 1980s to 2010, labor productivity grew in the four countries by twice as much compared to the Philippines.

A decomposition of the sources of productivity growth is more revealing. In the Philippines, there is hardly any within-sector productivity growth. This measure shows the extent of productivity gains among the firms and industries in the country. Another element of the measure of productivity growth is the dynamic reallocation effect of resource movements within the economy. Specifically, that measure indicates that labor located in low productivity sectors were shifting toward higher productivity sectors. The Philippine record shows a limited shift of labor from agriculture to services (not to manufacturing!). In the other ASEAN countries, the dynamic reallocation from agriculture to industry was a significant magnitude (Norio 2012).

A second study is one that I conducted on Philippine labor market policies. This study asked direct questions of the company respondents concerning fourteen specific, well-known labor policies. Although, in general, the survey elicited favorable answers to all existing policies, the more discriminating information received were those connected with the variability of the answers.

Variability meant that the average score for the response had a wider range of different answers, either good or critical, to the labor policies. Among those policies with high variability in responses included the following: severance costs for workers, termination of service issues, restrictions on fixed-term contracts, regulations dealing with worker dismissals, settling of labor issues, government inspections, and public holidays.

Some of the differences in the responses to the questions depended on whether the respondent firm was a recipient of fiscal incentives or not, whether the owners were foreigners or locals, whether the dominant market of the firm was domestic or export, and whether the firms were large or small.

With respect to the issue of minimum wage and some of the policies that had high variability in answers, Filipino-owned enterprises tended to be harmed more by the labor policies as compared to those owned by foreigners. And yet, the respondent set for foreigners was low because, in fact, foreign firms could vote with their own feet if they did not like the policies—they could leave.

I quote below one of the concluding paragraphs of my study:

> The existing labor laws tend to harm Filipino-owned domestic enterprises most heavily compared to foreign investors in the country. Yet it is also true that the government's effort to attract FDIs into the

> country have not yielded as much fruit as other countries in the regions that have continuously raised the inflows of desirable FDIs. These twin facts seem to emphasize a failure of economic policy to address two major needs—to make domestic enterprises competitive and to attract foreign capital—to enable the country to raise growth, generate employment, and sustain development (Sicat 2009).

The World Bank technical staff study that I cited earlier undertook a simulation of the impact of the minimum wage on income and employment, and among sector groups affected by the change in wage (Del Carmen, Margolis, and Okamura 2012). Using the 2006-07 data from the Family Income and Expenditure Surveys merged into the Labor Force Surveys, they simulated the impact of a moderate minimum wage increase (amounting to 8.7 percent) during the period on the household data on income and expenditure for the period. Here are some of the findings:

- The minimum wage increase helped to improve earnings, income, and employment, but the effects are not substantial.
- It helped to raise labor income during the period of increase.
- It reduced overall employment but redirected some labor to go into self-employment that yielded improved income.
- When they raised the magnitude of the minimum wage change, the results were very negative on the improvement of overall earnings.

The important point about minimum wage legislation and their other counterparts in labor welfare legislation is that they have set the Philippines apart from many less developed countries. As a result, they have become part and parcel of the menu of economic policies that contributed to the economic under-performance of the country as a whole.

Hence, such simulations as have been done enable us to see the marginal impact of the policy when new wage situations arise. These simulations do not provide an answer to the question whether the minimum wage laws as presently constructed help in the decisions of companies to locate in the country or elsewhere to other countries. When new enterprises shy away from locating in the country, or when those that want to come are deterred by the labor law in question, there is a loss to the country of activities, a loss that is not measured or is hard to measure because it does not take place.

Desirable Directions of Labor Reforms

The pressure to reform labor market policies comes from many quarters. The presence of large unemployed and underemployed groups in the labor market represents one such pressure. Too many visible poor people make one wonder how labor policies are failing to provide the opportunities for employment. Globalization is another factor. As an open economy, the migration of firms located in the country and of Filipino workers to foreign labor markets should represent a sign that something is wrong.

These two factors alone should be sufficient signal why policy makers should take up the cudgel. Yet it is strange that few do take up the signal to say labor policies should be changed. The high standards of labor laws embodied in the present policies represent a drag against employment of the poor members—the unskilled workers—of the labor force even as the country marches forward in progress. This helped to push the country to the tail end in economic performance. What is obvious in all this need for reform is that wage increases are and should be made intertwined.

The "successes" of labor policies that I have noted represent their own unexpected but adverse outcomes. They are unforeseen consequences that also demonstrate their ineffectiveness. The OFW outcome could be considered a debatable success. It is, after all, a positive outcome for the economy, for the remittances that OFWs bring to the country represent a boon to the balance of payments coffers. Yet, if Filipino workers find their work and prosperity at home with their families, they would also contribute to productivity growth at home. On the negative side, it is known that OFWs who work abroad could be gripped by loneliness or homesickness or could be forced to find new roots outside of their home country. Also, they face less protection from the laws of these foreign places because of the disadvantage of being foreigners.

The transfer of industry to other countries where labor is cheaper and more productive lessens the demand for labor at home. In economics, low cost drives out high cost. Efforts of the country simply to find fault with current developments by plugging loopholes that avoid reform could cause more harm in the long run. This is the tendency of those who, finding some adverse outcomes of labor laws, try to plug the loopholes and advocate only tighter implementation or legal banning of the outcome.

Rebalancing the Welfare of the Employed and More Employment

The present labor laws are tilted too much towards raising the welfare of the employed workers by fiat and regulation. The policies have discouraged investments, both domestic and foreign, that would have raised the demand for labor in the country—in particular, investments in industries that depend on the employment of more labor (that is, more labor-intensive activities). Instead, the current policies have helped galvanize labor-management relations to focus on labor rights rather than on the overall well-being of enterprises, including, of course, that of labor. Often this has the consequence of neglecting productivity as an agenda of concern between labor and management. Productivity is the key toward irreversible labor gains.

The government addressed the issue of minimum wage determination on a national basis by reforming that system in the early 1990s. The regional minimum wage setting was justified as creating a competitive bias against setting the national minimum wage too high. The reform helped to put demands for minimum wage increases on a more reasonable footing. But the philosophy of wage setting did not change.

The calculation of the minimum wage tended to focus more and more on the basis of a living wage. This is a wage rate supporting a whole family. It is far from a judgment of the laborer's productivity contribution to the firm. The living wage calculation inflates the minimum wage level. It also works to raise the bar against members of the family from gaining employment as they enter the labor force. Hence, one of its bad effects is to reduce the potential of family income becoming higher than the wage income earned from formal employment within the family.

The government needs to soften the regulatory powers that have stymied business decisions on employment, especially with respect to the dismissal of workers. The heavy rhetoric of social policies tends to focus government attention on welfare-providing provisions rather promoting employment-enlarging actions. The former raises the costs of financing government programs; the latter enlarges the incomes of the beneficiaries and reduces their dependence on handouts. The guarantees of jobs promised by the government have led to legislations that raised the bar of welfare standards and of entitlements awarded to labor. The government cannot force labor entitlements on business without hampering its cost position. Doing so might force it out of competitive position in the market. Yet, all firms that are able to sustain their competitive existence have an interest in supporting all its employees contributing to its productive efforts, often through the pressure of wages when the market demands it.

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The labor code's provisions requiring that workers be integrated as regular employees are not realistic. These regulations are harsh on business. They add the penalty of higher costs for every unit of labor hired. However, they are harsher still on laborers who cannot be integrated into normal employment and who lose their jobs periodically in cycles of six months of employment. It is unrealistic in the same way that the minimum wage laws had been, for many decades, unrealistic for many medium- and small-scale enterprises that could not afford the wage levels forced on them by government fiat. The labor regulators have turned a blind eye on the violations that are known to exist with respect to labor laws.

When laws do not produce the desired effects, something is wrong with them. They need modification. By being almost foolishly single-minded in pursuit of ineffective laws, the credibility of the whole system is put at stake. In fact, one of the complaints about the implementation of labor laws is that the process itself encourages corruption and rent seeking. The Joint Commission on Labor of the

Philippine Congress, which rendered a report on the issue in 2002, has made a point about the problems of implementation of labor laws.

Time-based contractualization of labor, the outsourcing of manufacturing tasks, and the use of other contingent employment arrangements are signs that part of the system is not working and needs fixing. The regulators want to criminalize some of these adjustments when the proper response is positive thinking and reform, not plugging loopholes and harsher punishments. It is important to understand that business is trying to adjust to the market to reduce costs. It is in competition with other industries and companies with lower costs. Some of the competition faced by domestic firms is not only internal but with firms located in other countries.

Workers should only be removed from employment for just cause, as provided by law. But this does not require processes that involve the decision making of the national government nor even of the courts unless there are civil or other rights infringed. Just cause should end in the firm's industrial relations with the employees through the collective bargaining process and through the proper evolution of processes within the enterprise. The idea that the state knows better than the firm in the determination of just cause for termination has led to the compounding of costs of employment and has caused a resistance among firms to hire people on a more regular basis.

The bureaucratization of the DOLE is an outcome of the labor laws that are complicated and, to some extent, over-designed for the stage of the country's development. DOLE has become a very large department with a large bureaucracy. Few labor cases move toward quick resolution. They involve high expense, especially on the part of employers, and they require hiring a legal bureaucracy, also on the part of the firms, thus adding higher transactions costs to labor hiring.

The state has an obligation to make enterprises more flexible in their operations so that they can cut costs and take advantage of economic opportunities as they arise. This will contribute to the ability of the firm to become more innovative in competition with other firms. The state needs to promote competition. And part of the competition is also creating situations for labor to be competitive within the firm so that they can improve personal performance. The guarantees provided by the labor laws to the employed make the employee too powerful by simply resting on the protection of the state. This has in many cases created sloth in labor performance. Regularization of employment is seen as an objective in itself.

Placing Productivity at the Center Stage

Productivity is the neglected element in the way the labor laws operate. It is easy to pay lip service to productivity growth. But in reality, the labor laws discriminate against achieving productivity. And many of the labor welfare measures that are put in place would be undertaken at the expense of promoting discipline and accountability for performance in the work place. This is one reason why productivity growth statistics describing Philippine economic performance have been disappointing.

But why is the Filipino worker very productive when the labor markets in which he works is outside the coverage of Philippine labor laws? In these foreign settings the labor laws have either little contribution to make to the incentive mechanisms governing the employment situation or have little relevance in the determination of the market wage. Growth of productivity is an outcome of experience in the work place. At other times it is represented by technological change represented by the invention of new techniques and is embodied in newer vintage capital investments. In an age of globalization, the need to catch up to new technological developments is part of the competitiveness game. In these settings, workers need to train and learn the additional demand for added skills in the work place, and the establishments find that essential in order to survive and pull ahead.

Any meeting of business and labor on the problems of labor policies will yield a litany of issues that need amendment. The most important issues that center on redressing the balance between welfare and performance are pointed out in what follows. Placing them on the agenda requires deep commitment and high leadership qualities as well as strong political will.

The first of these reform issues concerns the question of who is sovereign in the matter of determining just cause in the termination of employees. The state is concerned with many important issues, and it has no business being involved in the micro-affairs of employment within the enterprise. Within the enterprise the sovereign decision maker should be the business leaders and the laborers who compose it. Businesses should be allowed to develop their own internal mechanisms to determine employment justice and fairness.

Take the example of the thirteenth month pay which has become an element of the wage package in the formal sector of the economy. There is no reason why salaries and wages would need to be deferred if they are not related to productivity or personnel performance. The logic of the thirteenth month pay is not right. Either it is considered a bonus for performance or it is a wage in the normal course of employment. If it is a performance bonus, it cannot be given as an entitlement of one-twelfth additional salary. It has to be considered a differential pay for labor in contributing to the firm's business objectives.

In short, if the thirteenth month pay is a simple emolument for work, it should be integrated as part of the wage, and it should not be postponed as a payment. Firms would need the freedom to determine alternative schemes to improve performance within the firm of all laborers. This could be in the form of a bonus system or some form of profit sharing. The state could encourage these systems, but it should stay away from imposing its own views on how it should be done. Or else it deteriorates into a simple entitlement, with all the bad consequences that it has on productivity.

Labor Movement's Interest in Economic Liberalization

Attitudinal change is one of the most difficult reforms to undertake. Yet, major reforms begin with a change in attitude on the part of major stakeholders in the policies. It takes a combination of circumstances to make people, organizations, and institutions change the framework of thinking and adjusting. The inevitability of change sometimes helps to soften the resistance. It makes a big difference in the economic outcome when a country embraces reforms on their own merits compared to being simply forced by circumstances to follow change.

There are circumstances that make reforms inevitable whether we want them or not. Globalization, or its manifestations, will change the world in which we live. We can criticize or decry what other countries do, but that does not make it any safer to simply do what we are used to doing. Competition and freer borders among the factors of production and among goods are part of the future; the WTO and ASEAN assure that that happens. The benefits of being within these frameworks far outweigh the benefits of not being there. In fact, there are few benefits but a lot of costs to be outside these frameworks of the future.

The changes in overall economic policy have geared the economy toward globalization. Of the many labor policies, the minimum wage level, not the law itself, has been one of the most problematic. The reason is that the base minimum wage has always been set too high, following previous practices. Further, many other policies connected with labor contracting have become relatively rigid. Labor policies undertaken toward regulating employment have veered toward more protection of labor rights, unmindful of the impact on enterprise productivity and cost. Over time, there has been a relative increase of rigidity in this tenor of policy.

The government reaction to the problem of having a nationally-determined minimum wage—despite its dual nature of there being one for industry and the general economy, and another for agricultural and rural industries—was to institute regional minimum wages. But the practice of setting high minimum wages, the introduction of cost-of-living adjustments, and the inclusion of mandated bonuses have added government-ordered costs into the wage cost. The regional minimum wage setting has reduced the national minimum wage average but created "innovations" in wage setting that only further complicate the number of national wages and the issue of implementation.

But this is slow and quite inadequate to alter the overall picture of a labor market that suffers from the malaise of over-regulation and of dominantly welfare-oriented labor policies. The government's reform of the minimum wage institution into regional minimum wages, and the efforts to move industrial disputes from strikes and collective bargaining to arbitration have been very helpful in maintaining industrial peace.

Labor's interest and advocacy need to turn toward positive issues of investment attraction, strengthening Philippine competitive advantage, industrial reforms, and overall economic reform strategy with respect to social peace. In fact, the advocacy of organized labor, if it focuses on the welfare of the larger labor force and not its own selfish interests alone, would do well to forge social contracts that assure industrial peace with business. Other countries have used social contracts between government and labor and business. These are tripartite statements that call for all concerned, including government and labor, to follow a code of behavior—to maintain industrial peace that is expected to last over a specified period of time. The advantage that other governments have undertaken by assuring industrial peace through the strong hand of the state has made many economies in the Asian region prosper continuously.

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For instance, labor's interest in investment promotion is not evident among its advocacies. In fact, many of the leaders of the labor sector are seen to advocate restrictive policies that cause alarm to domestic and foreign direct investments in the country. An example is the alliance between protected industries and market opening moves. Organized labor tends to object to trade liberalization even when these measures strongly benefit consumers and promote greater efficiency.

Tariff liberalization issues and economic reforms related to the constitutional provisions pertaining to the role of foreign direct investments are part of the critical problems that require a breakthrough to improve overall growth performance and expansion of employment. To expand the opportunities available to labor, its leadership has to look to the further liberalization of the economy. Some of these issues go far beyond simply supporting globalization and improving the competitive posture of Philippine industry.

As the discussion of the successes of the Philippine labor market in this paper makes clear, Filipino workers do very well when they are challenged to test their skill and ability against other workers. It is the espousal of welfare-oriented thinking that has set back much of the progress of employment, and of the Filipino, in their country.

Because of the relative success of the OFW program of sending workers abroad, the DOLE has been transformed to some extent as an agency trying to send Filipino workers to foreign jobs. At home its task is more to regulate labor to conform to unwieldy labor regulations. Although it has a third branch that promotes training of workers, this branch—Technical Education and Skills Development Authority (TESDA)—could very well be considered a separate branch in that it has more affinity with the work and mandate of the Education Department's former vocational education program segment. At home the main task of DOLE is to oversee labor regulations and to implement wage laws, not so much to promote employment or to be a champion of rising labor productivity.

This attitudinal bias can only change if the mindset, or the mandate, of the labor bureaucracy is changed from labor protection to productivity promotion and training and increase of job opportunities. When the government decided to change the name of the department of labor into a department of labor and employment, there was only a cosmetic change. The bureaucracy continued its aggressive advocacy of what it considered to be its main mandate, which was to continue to be the guardian of labor; it was there largely to continue to add to the bureaucracy working for the protection and enhancement of labor welfare laws and regulations.

There is really a need for the government to look into the recommendation of the Joint Commission on Labor of the Philippine Congress that suggested that the department be simply called, Department of Employment. Such a change in nomenclature does not mean that the welfare of labor would not be looked at. It simply means a realignment of these welfare policies. Labor policies then would become a true source of enhancing the growth of employment so that the wide membership of the nation's labor force would experience having a secure livelihood.

Toward Rapid Employment Reform: Labor Employment Zones

Any rise in the rate of economic growth would create higher employment. Thus policies that contribute to higher economic growth support the objective of greater employment. The improved perceptions about the Philippine future as a result of recent international assessments are likely to lead to better times in terms of employment.

But this should not be a reason for complacency at the labor front. The backlog of unemployment and underemployment is large. The quickest way to erase such a big backlog as well as to reinforce the improving economic conditions is to follow the path of labor reforms, to correct the problems that have been outlined earlier.

A direct reform of labor policies in which particular provisions of existing policies are reversed, amended, or abolished would, however, be a high mountain to climb. This has proven to be the case earlier, during more trying times. It is unlikely to be any easier during improving times. This is despite the fact that improving times in our case is happening at a time when the world economy is doing very badly.

There are many good labor policies, and some of them are truly desirable in these times. It was specific provisions of labor policies that have deleterious effects and that require the adjustments needed to improve the economic efficiency of the labor market. However, in democratic politics, those already with jobs and who enjoy greater prosperity than the rest of the population tend to have a strong voice. They also try to protect their jobs and the subsidies they receive. They are impervious to promises of improved conditions because the reforms create economic uncertainty to their position.

On the other hand, the poor who suffer from existing policies have a weak voice in the reform process. They suffer the consequence of their being poor and having weak political power. With a lower level of education, they are easily susceptible to manipulation by populist rhetoric. (It is for the same reasons that the issue of the restrictive economic provisions of the Philippine constitution requires a strong leader with good political capital to push for the amendments.)

My solution for the reform of labor policies is to try an indirect method of reform: do not reform any direct provisions of the law but offer an alternative model of demonstrating what has worked before. Once in the past it was difficult to introduce direct reform of the trade and industry policies. The country was on a path of high protection of the domestic market, inward-looking, high cost, and with limited capacity to undertake exports. ASEAN moves toward greater economic opening as a group was far off and we were not even able to embrace the WTO.

But the government adopted export processing zones (EPZs) as a new approach toward attracting some types of industries. The EPZs allowed the entrance of firms engaged in manufacturing for the world and gave them access to imported raw material inputs at world prices and to Philippine labor to assemble the products. The EPZs enabled us to attract foreign direct investments into the country because of the liberal policies and the highly reformed business processes found in their midst. Thus we should copy ourselves.

Let us provide an escape from the trap of poor economic results as we did in the case of the import substitution policies of the past. We do not have to engage in direct reform of the labor laws that offend the employment creating process within the whole economy. Since despite them we have managed some growth, however weak, in the past, we should simply provide new opportunities where we can demonstrate success in a limited experiment in which some of the controversial provisions are relaxed. In fact, these conditions of life in the labor markets do not exist in poor communities where the labor zones are proposed to be created. They are in regions where the highest standards minimum wage law enjoyed in the country's most prosperous communities do not hold.

The proposal is to establish by law special industrial and agricultural zones that are designed for highly labor using companies to locate. These special labor employment zones will be located outside of the most developed metropolitan and industrial parts of the country as they exist today. *In these new zones for industrial and agricultural employment, the requirements of minimum wage, employment regularization, restrictions on fixed term contracts, and other forms of labor protection are suspended. However, other labor policies, such as workmen's compensation insurance, social security, and other desirable labor protection clauses, are to be pursued to protect labor.*

There are several important characteristics of the proposals for the labor employment zones. I have described the elements of this proposal in a previous economic paper. We have little time to elaborate on these characteristics. But here are the major ones:

- They are to be considered a region under the regional minimum wage setting process in which their wage setting is completely in the hands of employers and labor, guided by market conditions, except for certain labor laws.
- They are to be set up only in poor, more backward areas of the country where access to infrastructure is available so that they are not totally isolated. (Of great importance is accessibility to seaports, airports, road transport, and telecommunications: of course, some of these would later be provided as a consequence of later investment decisions).
- They are to be regulated but not run by the government, similar to the way the private EPZs are managed, and their access to raw materials are to be in the same manner as the EPZs.
- They are to be provided and maintained by the private sector, like the private EPZs.
- Their locators can be planned for big, labor-intensive corporate enterprises and they should favor large-scale investments primarily designed for international markets.
- The enterprises to be favored by such labor includes labor-intensive manufacturing operations, such as textile making, garments manufacture, shoemaking, toy manufacturing, and manufacturing for household needs.
- Labor zones could conceptually be made to apply to agricultural enterprises, including large-scale allocation of grazing lands or lands with potential for forestry estates. (Such latter enterprises can be made to synergize with agrarian reform cooperative associations, hence providing a productive link of agrarian reform beneficiaries with new industries for the future.)

Let the private sector undertake the construction of the industrial employment zones, and allow them many of the provisions of the PEZA laws regarding customs and other regulatory requirements for the import of raw material and access to other labor, including the import of foreign technical labor, so that these areas can obtain their raw materials at world price levels. What we will provide is to enable the firms to achieve the highest levels of labor supply suited for labor-using industrial operations. We have the supply of labor, and that labor supply is seeking employment at a steady rate of wages guaranteed by factory employment. Perhaps we will find with this the perfect complement for fostering a much more progressive Philippine nation, dynamized by its own intrinsic capabilities.

Philippine Labor & Employment Statistics, 1992-2010

Year	Population (million)	Total Labor Force (million)	Total employed (million)	Total Unemployed (million)	Total Under-employed (million)	Unemployed and Under-employed (million)	Unemployed and Under-employed as % of LABOR FORCE
1992	61.9	40.27	36.80	3.46	8.01	11.48	28.50%
1995	65.2	42.77	39.18	3.59	8.47	12.06	28.20%
2000	74.8	48.08	43.22	4.86	9.57	14.42	30.00%
2005	84.1	54.39	50.15	4.24	11.42	15.66	28.80%
2010	94.7	60.72	56.28	4.43	11.35	15.79	26.00%

Source: Philippine Statistical Yearbook 2011 and 2003

Notes

1 This is the working text of the President Edgardo J. Angara Fellowship Lecture delivered on July 31, 2012 at the School of Economics, University of the Philippines. The lecture culminates the author's work as Fellow.

2 To arrive at per capita GDP growth rate, simply deduct from the growth rate of the GDP the rate of population growth. Thus, given a population growth rate of 2.3 percent, if the economy for any given year grew by 4.5 percent, then the per capita growth rate is simply 2.2 percent.

3 See Sicat 2004b paper. It could be argued that labor subcontracting was not a success because it probably led to a lot of workers receiving wages at the bottom of the minimum wage scale and without the usual benefits of regular employment. But the fact was that this process enabled workers, who would otherwise be unemployed and who would have been much poorer as a consequence, to be employed and receive regular income instead of suffering a worse fate.

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