

**Identifying Strategic Industrial
Relations/Human Resources
Adjustments and Policy Responses
to the Challenge of Global
Competitiveness**

Executive Summary



PHILEXPORT

PHILIPPINE EXPORTERS CONFEDERATION, INC.

The Philippine Exporters Confederation, Inc. (**PHILEXPORT**), the dominant exporters' organization as mandated in Republic Act 7844 known as the Export Development Act, sees exports as the engine of development and prosperity of the Philippines and its people. It seeks to turn the Philippines into a globally-competitive exporting nation by establishing an export-friendly environment and by further unifying and strengthening the export sector.

PHILEXPORT ceaselessly moves to broaden its membership base as part of its strategy to achieve this goal. Today, **PHILEXPORT** represents the voice of over 3,000 export companies nationwide. It has also entered into memoranda of agreement with 42 industry associations to better address the sectoral concerns of all members. **PHILEXPORT** has established its national presence through its 16 regional chapters considered as the most export-active in the country.

PHILEXPORT believes that exports should be a concern not only of exporters but of all Filipinos. To this end, the organization is actively implementing programs to improve the policy climate for exports. In November 1994, **PHILEXPORT** entered into a Cooperative Agreement with the United States Agency for International Development (USAID) to implement the **PHILEXPORT**-Trade and Investment Policy Analysis and Advocacy Support projects (TAPS) which supports policy research and reform advocacy to improve the competitiveness of Philippine industries, among other objectives.

**IDENTIFYING STRATEGIC INDUSTRIAL
RELATIONS/HUMAN RESOURCES
ADJUSTMENTS AND POLICY RESPONSES
TO THE CHALLENGE OF GLOBAL
COMPETITIVENESS**

AYC Consultants, Inc.

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PREFACE

This report was sponsored by the Trade and Investment Policy Analysis and Advocacy Support (TAPS) Project, which is a joint undertaking of the Philippine Exporters Confederation, Inc. (PHILEXPORT) and the U.S. Agency for International Development (USAID).

The project was led by the Employers Confederation of the Philippines with AYC Consultants, Inc. and Center for Research and Special Studies (CRSS) as contractors.

The Employers Confederation of the Philippines (ECOP) is the recognized umbrella organization of employers dealing with labor and social policy issues. It counts as members the country's leading business organizations, industry groups, and chambers of commerce. In the international scene, ECOP is the spokesman of Philippine employers in the work of the International Labour Organization (ILO).

The general objective of ECOP's advocacy program is to provide key stakeholders in the employment relationship with choices and options in terms of a menu of strategic adjustments to deal with problems in industrial relations and human resource development brought about by the Asian economic turmoil. At the same time, there is a need to deepen understanding of the processes involved in the transformation of the employment relationship, most especially those in the areas of labor-management and compensation, towards the implementation of mutually gainful strategic adjustments. In defining the interventions of employers in this transformation process, the role of ECOP is most critical.

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The Philippines is now on the world economic map, thanks to a number of reforms under the Aquino and Ramos administrations.

Some areas, however, have not kept up with the general trend of reform. They must, if the gains that have been achieved are to be sustained.

Change must occur in the IR/HR areas if the Philippines is to be globally competitive.

One critical area where change must occur is in industrial relations (IR) and human resources management (HRM), where the rules governing it still date back to the thirties, fifties and seventies. This is an area where reform has not yet occurred, but where a number of issues are in urgent need of resolution. The main intent of this report, therefore, is to address key industrial relations issues and problems that have hobbled Philippine industry and have prevented it from undertaking appropriate IR/HR adjustments that will enable it to be globally competitive.

Specifically, the report seeks to address the following key issues which are discussed in the main report in three modules:

MODULE 1: IR/HR Adjustments for Global Competitiveness

Labor and management need to work together.

Smoothing the process of industrial adjustment. Most of the labor cases in the country today are related to the changes industry must make to meet global competition and market changes. A number of these adjustment measures have bitterly polarized labor and management to the point that the ensuing adjustment itself has become ineffectual and sometimes even counter-productive. In particular, labor and management are polarized over management's search for flexibility, including labor flexibility, versus the demand of labor for job security. Are there "best practices" worth emulating in the adjustment process as Philippine industries try to find their bearings in the global market?

MODULE 2: Reducing Legalism and Enhancing Labor-Management Cooperation

Hostility must be reduced.

Reducing hostility and legalism in labor relations. There is no way industry can advance and serve the interests of both labor and management if the two parties are always in conflict.

No productivity program will work within such an environment. Moreover, the market, which changes rapidly under a globalized economic environment, cannot wait for the resolution of labor cases that take years, even decades. Investments will simply shy away — costing job opportunities.

MODULE 3: Wages and Productivity Within the Context of a Labor Surplus, Open Economy

Wages should be market-determined and related to performance.

Professionalizing minimum wage setting and promoting a genuine productivity movement. The present system of minimum wage fixing has caused not only considerable division among the tripartite actors (labor, management, and government), but also endless wage distortions between the professional and technical workers vis-a-vis the unskilled and semi-skilled workers. It has also subverted the institution of collective bargaining (and unionism itself) and efforts of the more progressive companies to professionalize and upgrade the workforce. Is there a way of professionalizing the management of wage setting and reducing the arbitrary, non-productive aspects of wage fixing? On the other hand, how can productivity, an old theme in Philippine industrial relations, be transformed into a movement that will be accepted by all parties?

In addition, this report also seeks to highlight the challenge facing Philippine management as it transforms enterprises into globally-competitive ones. An endeavor that requires more, not less, investment in human resources development and the adoption of

the best possible practices in industrial relations management. Shortcuts to competitiveness through labor-sweating techniques and other labor abuses at best lead to merely short-term competitive gains. At worst, they lead to costly disputes and eventually to the failure of the business.

Government should provide the support.

Under the new deregulated and globalized business environment, management, more than labor or government, is in a greater position to lead a positive transformation process — in productivity and IR/HR reforms that will contribute to the overall competitiveness of a business. However, labor should also have an increased appreciation of, and participation in this transformation process, while government should provide the necessary policy environment and supportive institutions, such as an efficient dispute settlement machinery and an educational system that works.

The need and the way to improve efficiency and productivity have been argued for years and have led to sharp labor-management disputes. And consequently, to either little or unsuccessful adjustments at the industry level.

Time is running out.

But time is running out. If change does not occur, Philippine workers will lose job opportunities — even existing jobs.

Perhaps the hardest thing to recognize is that there are no easy answers, no magic formula that will create a work utopia. No

government has ever been able to legislate jobs. Only the free market economy has accelerated human wealth creation faster, for any extended period, than any other societal system.

The role of government should be to provide the best possible environment for business, with as little intervention as possible. And to ensure that the abuse of people does not occur. This is as true for labor policies as it is for investment and trade policies.

SPECIFIC RECOMMENDATIONS

1. On Industrial Relations and Human Resources Management Adjustments

1.1 Promote Win-Win and Smooth Industrial and IR/HR Adjustments

Employers should involve workers in planning industrial adjustment.

It should be pointed out that there are no hard and fast rules on what ought to be the "best" IR/HR adjustments for any given industry or enterprise. However, there are some general principles which can guide captains of industry, as follows:

- developing business strategies not around low cost and low wages but around the real sources of competitive advantage
- developing an organizational culture which views people as valued stakeholders

- developing mechanisms to enable human resource concerns to be included in formulating strategy and in the way the organization is managed
- developing policies which support employment security
- developing the workforce through more investments in training
- developing fair compensation levels into which variable components can be built to promote enterprise objectives
- developing an appropriate selection process which will ensure the hiring of the right people and the means to develop career paths for them
- developing mechanisms for employee involvement in decisions pertaining to their jobs
- developing a climate of minimum conflict

1.2 Curb Abuses in External Labor Market Flexibility

With the increasing trend towards external labor market flexibility, there has been much concern among policymakers that the practice harms the interests of workers, especially the unskilled ones, with dislocation, job insecurity and other abuses associated with the practice. The approval of Department Order No. 10, which has clarified many of the contentious issues in the practice, is one welcome policy intervention to curb possible abuses.

There is currently a bill pending in Congress which seeks to criminalize the practice of labor-only contracting, in effect categorizing it as a heinous crime. While this paper shares the belief that labor-only contracting should remain prohibited,

criminalizing it may only push the violators to go underground making the practice more difficult to detect. The more reasonable and practical solution is to impose stiffer penalties to violators enough to dampen the attractiveness of labor-only contracting.

1.3 Address Structural Rigidities

- Address Skills Imbalances

Education and training will play important roles in providing workers with the resources — appropriate skills and job habits — to take advantage of new opportunities as they arise in fast-growing markets.

Strengthening the public education system is the most obvious solution. However, given the long gestation period, improvements in the general education system should be complemented by public skills retraining programs including basic adult education in literacy and numeracy. Where possible, these programs should be undertaken at the city or community level to make the programs accessible to the workers. One stop shops can be set up in firms where workers can be informed on existing training programs they can avail of. In the existing Public Employment Offices, information on training opportunities should be made available as well to job seekers.

However, these schemes should be taken with caution because they involve huge investments on public resources. Shortfalls may be avoided by drawing on the experiences of government agencies

which implemented public retraining schemes in recent years.

Industry should help in putting up training programs.

A more realistic and economically-viable training program would involve the private sector. As the German experience shows, a Dual-tech training program where industry and skills providers work together is an effective means to transmit appropriate skills needed by industry. At the same time, incentives can be granted to firms which provide training to its workers. As the Australian experience demonstrates, cooperation with trade unions is possible in designing training and working arrangements within the framework set at the industry or occupational level.

- **Ensure Speedy and Fair Resolution of Termination Cases**

To ensure their protection from unjust and arbitrary dismissal, employees are given the right to due process. The right of an employer to terminate its employees, on the other hand, is recognized under Arts. 282-283 of the Labor Code.

Poor performance should be a valid ground for termination.

The Code, however, does not specifically provide for poor performance as constituting just cause for termination as it does for "gross and habitual neglect of duties." In reality, it is difficult to terminate employees on the basis of poor performance once they are regularized. It is therefore, suggested that poor performance be considered as a valid ground for termination

provided that the standards for what constitutes as good or satisfactory performance are clearly made known to the workers. At the same time, it should be stressed that it is primarily management's responsibility to bring out the best performance from its people by cultivating an environment conducive to learning and to improving work habits.

Termination cases should be resolved within the prescribed period.

As of 1996, 6 out of every 10 cases filed before the Regional Arbitration Branch of the National Labor Relations Commission (NLRC) deal with termination. On the average, cases are decided between 3 to 5 years. Unions and workers are at a clear disadvantage because of the lengthy litigation which eats up much of their meager resources. One action that can be taken is to simplify the administrative process and expedite the cases with the NLRC. The NLRC should discourage dilatory tactics and compel the parties to settle the dispute within the prescribed time. Any labor arbiter who fails to execute a decision within the 60-day period should be disciplined in accordance with the public service guidelines.

1.4 Professionalize Subcontracting and Labor Contracting Arrangements

Improve inter-agency linkages and professionalize subcontracting.

Subcontracting practices in the country should be professionalized to foster natural industrial linkages among large and small

producers and suppliers. The new guidelines on subcontracting are a step towards this. Although their purpose is mainly regulatory, they may encourage a more professional relationship between the principal and the contractor since the parties are compelled to put in writing their respective responsibilities to the business as well as to their workforce. What is needed is for the contractors to meet their legal obligations.

1.5 Provide Institutional Support to Industry

Create an industry adjustment fund instead of GATT safety nets.

The focus of government intervention should be on the adjustment process itself rather than on the outcomes of the adjustments. A program on safety nets, which does not seem to have worked too well, suggests that there is already acceptance of the inevitable collapse of some industries and the displacement of workers. A better alternative may be to change the law and create instead an Industry Adjustment Fund that is more specifically defined to help companies either upgrade their operations, shift into a new or more promising business or find suitable market niches.

1.6 Foster a Tripartite Alliance to Advance Productivity Concerns

Develop a tripartite alliance around a clear agenda for reforms.

For the tripartite alliance to succeed, there is a need for a clear agenda of reform to unite the parties. For instance, both government and labor have to support the initiatives of

management to undertake an upgrading and modernization program to make their products world-class. On the other hand, management has to make such upgrading adjustments with labor as a partner. The Philippines can also learn from the recent successes of Japan and Australia which tried to develop consensus on their respective economic recovery programs.

2. On Legalism and Labor-Management Cooperation

2.1 Strengthen Plant-level Dispute-settlement Mechanisms

Get arbitration down to the plant level.

Resolving labor disputes at the plant level is the most effective way by which the arbitral system can be declogged of numerous pending cases. To make the grievance machinery really work requires a reorientation in the attitudes of the parties towards each other in the settlement of disputes. There should be massive education programs, by both public and private agencies. Along with this education program on grievance-handling should be the promotion and strengthening of other plant-level bipartite schemes of dispute-settlement or confidence-building mechanisms.

2.2 Transform Collective Bargaining Towards Mutual Gains Bargaining

Look for gains for both parties.

Instead of reducing collective bargaining to a question of law and power relationship, management and labor should see it as an exercise to promote and achieve mutual gains. This means a recognition by the two parties of each other's concerns — on the part of management: company viability, efficiency and productivity; and on the part of labor: income, job and union security.

The following facilitating measures are suggested:

- **Confidence-building measures.** On top of the usual talk on the need for cooperation, there should be practical joint problem-solving exercises where both parties realize the importance of communication, consultation and cooperation.
- **Information-sharing.** The Labor-Management Council, which is an important channel for communication, can be utilized before any formal bargaining process for the sharing of relevant information between the parties.
- **Commitment to good faith bargaining.** There should be commitment by both parties to genuine bargaining, which means exploring what is possible given the good faith of both parties and avoiding any "take-it-or-leave-it" stances.

- **Inclusion of a competitiveness clause.** With globalization-induced competition, both parties should be concerned on how to maintain the competitiveness of the company while strengthening the benefits that each party gets from company operations.

2.3 Change Mindsets on the Dispute Settlement Process

Change the mindset of labor and management vis-a-vis each other.

Too often, the process of labor dispute resolution is reduced to a legal exercise. If Philippine industries are to survive and win in today's competitive global environment, labor and management should learn to redefine their relationship in terms of one based on cooperation and trust in achieving mutual goals.

Management must accept their social responsibility with the union and workers. They must realize that no genuine world-class company can sustain their competitive advantage in the long-run through abuse of labor and social standards. On the part of labor, they should also accept that there are mutual interests with management and that cooperation is essential in making the firm more competitive and jobs more secure, rewarding and safer.

2.4 Promote Champions on the Reduction of Legalism

Publish examples of better labor-management relations.

The best way to promote a less legalistic culture is by showing the successes of companies and countries who have succeeded in making the transformation towards better labor-management relations.

2.5 Transform Officials Handling Labor Cases into Labor Educators

Since the arbiters, regional directors, med-arbiters and other officials of the Department of Labor are the ones directly consulted by the parties on their cases, these officials should take the opportunity to interact with the parties and orient them on sound labor-management practices and ways to minimize disputes. They should do this without sacrificing objectivity over the cases they are handling.

2.6 Promote Alternative Modes of Dispute Settlement

Encourage "out of court" settlements.

Steps should be taken to promote alternative modes of dispute settlement, including encouraging out-of-court settlements. At present, compulsory arbitration remains the preferred method of dispute settlement over voluntary arbitration. A reason for this is that there is no perceived difference between the two methods in

terms of reduction of delays since cases filed with the voluntary arbitrator, if appealed, will have to go through the Court of Appeals before the Supreme Court. The delays incurred through the Court of Appeals all the way to the Supreme Court are almost the same as that with compulsory arbitration cases, which are appealed directly with the Supreme Court.

2.7 Reduce Delays in the Disposition of Dispute Settlement Cases

Deadline must be set - or penalties imposed.

While the Labor Code imposes mandatory deadlines for the resolution of disputes by the quasi-judicial and administrative bodies, oftentimes, such deadlines are not met and no penalties are imposed. It is unlikely that the disputing parties will try and correct this system. Thus, the most practical tack is to initiate positive interventions from the administrative and judicial bodies, as follows:

- Dejudicialize the procedures in dispute settlement
- Encourage labor arbiters and other presiding officers in dispute settlement bodies to be performance-bound by recognizing good performance
- Expand the jurisdiction of the voluntary arbitrators and the DOLE Regional Directors to declog the arbitration system
- Institute a standard for the resolution of labor disputes
- Get outside experts in interest disputes
- Expand the number of labor arbiters

2.8 Tighten Enforcement of Clearly-worded Procedures

Enforce the law.

Labor cases arise in the implementation of labor laws. Since simple procedures have been provided for the enforcement and application of labor laws, these procedures should be complied with. These especially include procedures fleshed out in various Articles of the Labor Code. Penalties should be applied against parties who refuse to follow the rules.

2.9 Institute Legislative Reforms

There is a need to examine the laws, rules and practices related to union representation, collective bargaining, conciliation-mediation, preventive mediation, assumption orders, voluntary and compulsory arbitration, and the multi-layered system of appeals. Such examination should focus on the strengths and weaknesses of the present framework of labor relations, and how legalism, in particular, can be reduced. This also entails a thorough review of jurisdictional lines, roles of agencies involved in the various types of dispute settlements, and power to hear of non-judicial and quasi-judicial bodies.

The review should explore approaches to devolution and strengthening of dispute settlement functions at the regional office level, and simplification of the appeals system through the creation of only one appeals body.

3. On Wages and Productivity

3.1 Redefine Minimum Wage as a "Subsistence Wage"

Republic Act 6727 defines minimum wage as "the lowest wage rate fixed by law that an employer can pay his workers," and identifies several criteria for minimum wage setting. While RA 6727 helped depoliticize the wage setting process, to some extent, and resulted in wage levels more attuned to the economic conditions of the regions, the numerous criteria and exemptions provided by the law also led to conflicting interpretations of the minimum wage concept and the wage setting process.

It is this study's contention that a minimum wage should be just that — a minimum wage, the lowest wage a worker should be paid regardless of skills, education or experience to be able to meet daily minimum household requirements. Following this argument, it is not necessary for the minimum wage to be pegged to productivity. Not only is it difficult to establish the productivity of minimum wage earners, it is also inconsistent with the idea of providing a "safety-net" to the low-skilled just so they can meet their daily basic needs.

The problem is the Philippines has seen minimum wage as being the "most common" wage, a wage most workers would be on. If minimum wage were seen as it should be — the very lowest a worker can get and survive on — then management would be given the flexibility to set wages related to performance rather than to what government says it must pay.

3.2 Scrap the Productivity Law (RA 6971)

RA 6971 should be scrapped - no other country does it.

When RA 6971 was passed in 1990, it was intended to encourage higher levels of productivity among enterprises and the sharing of the benefits of productivity to workers through a system of tax incentives. Reportedly, only 5 to 7 companies participated in the program.

Presently, RA 6971 is in the process of being amended to make it more flexible and attractive to enterprises. Some of the major revisions being considered include the following: allowing labor and management to decide on the percentage of gainsharing; raising the tax incentive to 100% of the amount of bonuses and skills training granted; and allowing labor and management to determine when to give the bonuses with the minimum provision they be given at least once a year.

Commendable gestures, but they still miss the point. Productivity improvement is not a voluntary undertaking but an indispensable strategy for the enterprise to survive competition. RA 6971 should just be scrapped. No other country in the world has found it necessary to legislate for productivity. It would be far better for the government to concentrate its efforts on informing managers and workers of the benefits of instituting gainsharing programs and the means to do these.