Effective Abolition of Child Labor
By JONATHAN P. SALE

The effective abolition of child labor is one of the fundamental workplace principles identified by the International Labor Organization (ILO). This is embodied in ILO Convention No. 138 (1973) on Minimum Age of Employment, which the Philippines ratified. How does Philippine law put into operation this fundamental principle?

Under the Philippine Constitution, the State affirms labor as a primary social economic force and shall therefore protect the rights of workers and promote their welfare. It requires the State to give full protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all. It is also the duty of the State to regulate the relations between workers and employers. The right to humane conditions of work is a collective right of workers.

The Labor Code is the main repository of Philippine labor statutes. Under the Labor Code, the minimum employable age is 15 years. A worker below 15 should be directly under the sole responsibility of the parents or guardians, provided the work does not interfere with the child’s schooling and normal development. And no person below 18 can be employed in a hazardous or deleterious undertaking. Work is not hazardous if the employee is not exposed to any risk that constitutes an imminent danger to safety and health. An employer is prohibited from discriminating against any person in respect to terms and conditions of employment on account of his age.

Under the Child and Youth Welfare Code, children below sixteen years of age may be employed to perform light work which is not harmful to their safety, health or normal development and which is not prejudicial to their studies. They have the right to join the collective bargaining union of their own choosing and neither management nor any collective bargaining union shall threaten or coerce them to join, continue or withdraw as members of such union.

DOLE Department Order No. 18, Series of 1994 prohibits the employment of children below 15 years of age except: (a) when the child works under the sole responsibility of the parents or legal guardian who employs members of the family only, provided the employment does not endanger the child’s life, safety, health and morals, nor impair the child’s normal development and he is given primary and/or secondary education; and (b) where the child’s participation in public entertainment or information is essential, provided the employment does not involve advertisements or commercials exhibiting violence or promoting alcoholic beverages,
intoxicating drinks, tobacco and its by-products, there is a written contract approved by DOLE and the conditions prescribed in letter (a) above are met.

Based on an administrative ruling, children who participate in a TV program as reporters are considered employed and must not be paid just by giving them books in lieu of talent fee or wages, despite the emphasis of the show on values education. As a general rule, wages must be paid in legal tender. (Vicente Amador, Labor Standards Administration, [2000])

The Congressional Commission on Labor reports that the labor force participation rate of those aged 15-19 years is slightly above 40%. Most of them are available for work when school is out during the summer, thus increasing the labor force and unemployment during those months. The unemployment rate in this age group has been increasing over the years, from 18.3% in 1993 to 19.9% in 1995, to 22.8% in 1998. According to the Commission, the Philippines' high unemployment rate can be traced largely to high unemployment rates among the youth. In October 2000, the country’s unemployment rate stood at 11.2%. The Bureau of Labor and Employment Statistics reported that as of July 2001 the unemployment rate was 10.1%.

Notwithstanding the carefully crafted rules outlined above, there still are documented cases of child labor in hazardous undertakings in the country. Examples are child divers in Muro Ami fishing, child workers in the woodworking and textile industries, child miners in small-scale gold mining in the provinces of Zamboanga, Davao and Camarines Norte (Dulce Estrella-Gust, Occupational Safety and Heath Challenges, 1999).

Richard Szal notes that there is an increasing incidence of child labor, particularly in the garments industry, in view of the country’s export-oriented strategy. There are also many children in handicrafts and home-based production. Employers hire them because (i) adult workers are not available, (ii) children are more trainable, (iii) children are more hardworking and (iv) children accept lower wages. In addition, children are not predisposed to join or form unions, albeit they have the right to self-organization under the Child and Youth Welfare Code as previously mentioned.

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