

Industrial Democracy in the Rough Seas: The Case of Philippine Seafarers

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Abstract

The case of Philippine seafarers illustrates the tensions between globalization, national labor regulatory policies, and industrial democracy. Filipinos have the largest share in the global labor market for seafarers, and their terms and conditions of work are in the twilight zone of global shipping and national labor regulation. While circumstances in global shipping and the International Transport Workers Federation (ITF), the International Maritime Organization (IMO), and International Labor Organization (ILO) influence terms and conditions of employment, national labor laws prevail. Typically, Filipino seafarers work alongside mostly European officers and other multinational crew, in a ship flying a flag of convenience, most probably owned by Western or Japanese capital. National labor regulations provide both protection from and exposure to the vagaries of industry competition. The fiction and realities of industrial relations in the Philippine seafaring industry are indicators of the hurdles facing industrial democracy in a transient workplace such as a foreign owned global ship with a multinational crew.

Introduction

The case of Philippine seafarers illustrates the hopes and tensions between globalization, national labor regulatory policies, and industrial democracy. Filipino seafarers are highly valued in their contribution to the Philippine economy—dollar remittances are reserves against balance-of-payments deficits, i.e., to pay off the huge foreign debt of £50 billion. Official records show there were 209,953 Filipino seafarers in the global labor market in 2002. The seafarers are a significant group among Philippine workers overseas, estimated at 7 million, in some 146 countries all over the world but mostly in

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the Middle East. Filipinos overseas are 10 percent of the Philippine population and about 20 percent of the workforce. According to official records, 4.2 million Filipinos are classified as overseas contract workers (OCWs) who work on fixed terms of six months to two years (DOLE 2003).

Seafarers' estimated remittances of \$1.99 billion represent about 31 percent of the \$6.4 billion total remittances from all Filipinos working overseas. With exports in 2002 valued at \$34 billion, overseas workers' earnings were worth some 19 percent of all export earnings. The earnings of seafarers alone are equivalent to 6 percent of the value of the country's exports (POEA 2003).

The Philippines continues to be the largest supplier of seafarers—both officers and ratings—with a 28.1 percent share according to results from the SIRC 2003 global crew survey. This share is consistent with the findings of the SIRC 2000 (Lane et al. 2002) survey showing the Philippines as supplying 28.5 percent of the total population of seafarers aboard ships engaged in international trade. In the SIRC 2003 sample, Russia (6.8 percent) and Ukraine (6.3 percent of the sample) are next to the Philippines as seafarer supply countries, but the combined share of the other two countries in the top three is slightly less than half that of the Philippines. Other important seafarer supply countries include China, India, Indonesia, Poland, Greece, and Turkey.

The Philippines has a labor surplus economy, with a population of 81 million and a workforce of 33.6 million (NSO 2003). A relatively high annual population growth of 2.3 percent between 1980 and 2000 has added a sizeable surplus of young job seekers every year. Open unemployment remains high (10.6 percent in January 2003). In addition, underemployment—officially defined as “those who are employed but still looking for work” is 16.1 percent. While the Philippine GDP rose by 4.6 percent and GNP by 5.2 percent, payments for the US\$50 billion foreign debt and the perennial \$138 million deficit of imports over exports continue to burden the economy (NSO 2003). Dollar remittances from seafarers and other workers overseas alleviate these deficits.

Philippine Industrial Relations and Tripartism

Philippine trade unionism is about one hundred years old. The first Philippine trade union—a pioneer in East Asia—the Union Obrera Democrática was established in 1902. It was led by Isabelo delos Reyes, fresh from being imprisoned with unionists in Spain, and was formed as part of the national liberation struggle against Spanish, and later American, colonialism. The historical legacy of political unionism continues to influence the organizers and leaders of the various workers movements in the Philippines. It is generally acknowledged that the mobilization of organized workers through the unions had a very significant role in the peaceful removal of President Ferdinand

E. Marcos in 1986 (people power revolution in EDSA I) and President Joseph Estrada in 2000 (EDSA II).

There are variations in the estimates of the number of union members. Official statistics (DOLE 2003) report 3.9 million union members in 11,601 unions, but there are overlaps in reported membership by local unions and their federations. Other estimates indicate only 1.4 million union members (Fashoyin 2002), or even lower, with a minimum of 350,000 to a maximum of 600,000 (Traub-Merz 2002). Union density is about 14 percent of wage employment, and collective bargaining covers 36 percent of union members. There is a consensus among observers that union membership is declining (Traub-Merz 2002; Bacungan and Ofreneo 2002). There is no single national trade union center—there are 9 labor centers, 166 federations, 7,349 independent unions, 9 workers associations, and 794 public sector unions. The Philippine labor movement is highly politicized and divided along ideological or partisan lines. A spectrum of trade union colors may be advantageous for freedom of choice, but divided organizations can also be exploited. There are several trade-union based political parties, in competition for limited electoral seats reserved for party-list seats in the lower house of congress in the national elections. A minority of seven party-list legislators from the trade unions pales in comparison to a total of 250 legislators in the Lower House. Minority labor representation in congress means that favorable labor law reforms cannot be conceived as a priority in the legislative agenda. Workers strikes, demonstrations, rallies, and other militant forms of concerted action are used instead to attract attention to labor issues.

Current law on Philippine industrial relations revolves around a Labor Code enacted in 1974 through a decree of President Ferdinand E. Marcos during the country's dark period of dictatorship. Another complication in the Philippine model of collective bargaining is the replication of what was introduced in the United States in 1935, the National Labor Relations Act (known as the Wagner Act) and the Labor Management Relations Act (known as the Taft-Hartley Act, 1947). The Labor Code's title says "A decree . . . to afford protection to labor, promote employment and human resource development and ensure industrial peace based on social justice." The labor code consolidates all laws and statutes on workers protection, including labor standards on working hours and pay, which were hard-won gains by labor struggles in previous decades. Thus, Article 4 of the code declares that "all doubts in the implementation and interpretation of the . . . Code . . . shall be resolved in favor of labor." Bacungan and Ofreneo (2002) pointed out that "uneven accumulation and industrialization . . . to encourage foreign investment and develop export oriented industries, and an open economy" defined the development of labor law and industrial relations in the Philippines.

Nevertheless, the labor decree, even as a martial law instrument, had strong provisions on industrial democracy. Article 211 of the Labor Code for instance declares as state policy “to ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.” The same article also aims “to promote free trade unionism as an instrument for the enhancement of democracy and the promotion of social justice and development.” This law encourages “a truly democratic method of regulating the relations between the employers and their employees, by means of agreements freely entered through collective bargaining.” Article 275 of the same labor code also declares “tripartism as state policy . . . [wherein] workers and employers shall be represented in decision and policy-making.” The Philippine Department of Labor and Employment (2003) reports among its major projects “round table discussions and tripartite meetings and conferences with representatives from government, labor and management sectors . . . to encourage the participation of workers and employers in policy-making bodies of the government, promote industrial peace based on justice and to align labor and social relations with priorities.”

Industrial Relations in the Philippine Seafaring Industry

Philippine labor laws were designed for land-based workers. There is a great degree of selectivity in applying labor laws to seafarers, who are on fixed term contracts. Filipino seafarers have freedom of association, and could choose to be union members and be covered by collective agreements. Beyond this façade, industrial democracy aboard a ship plying international waters could be but fiction: union stewards on board ships are a rarity, and seafarers could not recall any union election to elect officers. Concerted action through strikes is extremely difficult, a rarity on board ships.

The shipping industry is a fascinating phenomenon of globalization, since it is in the margin of state regulations. The maritime industry has a highly globalized labor market. Ship operators employ labor easily from anywhere in the world, with crew joining ships in designated ports. Greek owners can register their ship and fly the flag of Liberia (and thereby follow the employment and labor laws of that country). The ship could then be chartered by a Chinese company in Hong Kong, and recruit Philippine seafarers and officers from India or Malaysia for a six-month contract aboard. In Manila’s Rizal Park, now famous as a street labor market for seafarers, hundreds of unemployed men out of sea duty sign up with crewing agents who circulate around with urgent crewing demands all over the world. Rizal Park serves as an informal labor market information channel, an open “hiring hall” for job auctions. Seafarers spend for their own pre-sail medical checkup, passport, and qualification pa-

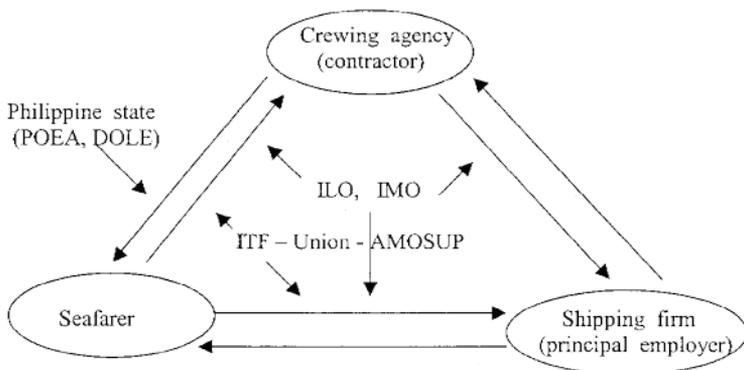
pers. Some even agree to monthly deductions from crewing agents for “cash advances” that are not actually received, but are in reality kickbacks.

Seafarers’ employment is contractual and temporary, with most seafarers being employed on board for six to nine months. They spend about the same period, more or less, in unsure job search (more details about Philippine seafarers can be found in Amante 2003). With temporary employment contracts, seafarers and their unions are at an immense disadvantage in negotiating for better terms and pay. There are six seafarer unions in the Philippines, with a combined membership of 80,000 (or 38 percent of the 209,953 seafarers in 2002). The Associated Marine Officers and Seamen’s Union of the Philippines (AMOSUP), with 55,000 members and an ITF-affiliate, is recognized as the biggest and most influential seafarer union. Gregorio Oca, AMOSUP president, has maintained his leadership of the union since he first organized AMOSUP in 1960. AMOSUP is represented in various policy-making bodies with government and industry and in seafarer-related conferences in the ILO and the IMO. Figure 1 illustrates the trilateral employment relationship between seafarers, their crewing agents, shipping employers, and the Philippine State, through the Philippine Overseas Employment Administration (POEA) as regulator.

Employment of Filipino seafarers is done through 417 recruiting agents (crewing or manning agency) employed by foreign shipowners. Unions, however, can facilitate employment of seafarers through the “hiring hall.” The AMOSUP brochure says for instance that the union “has a placement office

FIGURE 1.

Trilateral Employment Relations of Philippine Seafarers in the Global Labor Market



to deploy union members to shipping and manning agencies requesting for qualified seafarers.” In this case, the union becomes an agent of the employer—a conflict of interest—but labor disputes in this regard are unknown. The POEA is empowered by law to accredit crewing agents; there is a watchlist of both crewing agents and seafarers who have been charged with violations of labor laws. The foreign principal pays seafarers’ wages, and the local manning office gets a lump sum from the shipowner to pay these wages. The decision to hire a seafarer and how much to pay him depends on such factors as the amount of the package required for a multinational crew complement, the costs of the voyage, and the expected income.

Philippine labor laws, specifically the Migrant Workers Act of 1995 (Republic Act 8042), regulate the trilateral employment relationship with respect to the engagement of the seafarer. The POEA is the specific agency tasked to implement the Standard Employment Contract (SEC) for seafarers, as required by law. The SEC reflects the Philippines’ ratification of a number of ILO conventions on seafarers’ working conditions and employment. In case of disputes, the Philippines’ National Labor Relations Commission (NLRC) “shall acquire original and exclusive jurisdiction” to hear and decide cases. Employer principals (the shipowners) and the crewing agency have joint liabilities to pay for claims filed by seafarers. Labor disputes involving seafarers and their employers are quite numerous in the Philippines, mainly on illegal dismissals from employment, and compensation for injuries and death. Supreme Court decisions have established precedent jurisprudence on the protection of their welfare and the enforcement of Philippine labor laws.

Seafarer Labor Regulation and Global Governance

The case of Philippine seafarers illustrates the tensions between globalization, national labor regulatory policies, and industrial democracy. The terms and conditions of employment of Filipino seafarers serving in global ships are determined heavily by circumstances in world shipping, the negotiating strength of the ITF, and the effective enforcement of IMO and ILO conventions as reflected in the collective bargaining agreements. The ILO’s recommended basic minimum wage for able seamen (AB), for instance, was US\$435 in 2000 (ILO 2002). The monthly benchmark pay for seafarers (AB position) is currently \$1,350. This rate applies to all seafarers covered by agreements between shipping employers and unions affiliated with the ITF. The International Bargaining Forum (IBF) forum includes: ITF representatives; the International Mariners’ Management Association of Japan (IMMAJ); the International Maritime Employers’ Committee (IMEC); and the Danish Shipowners’ Association (DSA). The decision to suspend implementation of the new benchmark wage was prompted by a resolution filed by Captain Gre-

gorio S. Oca, president of the ITF affiliate AMOSUP, which called for a temporary freeze of the scheduled increase. Oca said that a further increase in the wage of Filipino seafarers would render Philippine labor more expensive and less competitive in relation to seafarers from other Asian countries. A \$50 increase would price Filipino seafarers out of the market. He stressed that he prefers security of employment for Filipino seafarers than the increase.

Some shipping companies provide reasonable working conditions for their crew as they sail from port to port, including working hours, overtime pay, health and safety, food and accommodation on board, and training. However, many shipping firms, especially from various flags of convenience, scrim on wages, food, medical care, and safety standards. For thousands of seafarers, "life at sea is modern slavery and their workplace is a slave ship," according to the International Commission on Shipping (ICONS 2000).

The IMO's convention on maritime education and training tightened seafarer qualifications through a convention on Standards of Training, Certification, and Watchkeeping (STCW '95), and ninety-eight maritime schools and training centers in the Philippines are in the IMO "white" list. Substandard schools, however, still flood the country with unemployed seafarer graduates. The IMO held other conventions to safeguard the sea environment. The ILO has rules regarding fair pay, working hours, and adequate food and accommodation for sailors. Another convention consolidating seafarer labor standards is due for approval by the ILO General Assembly in 2005. But neither the IMO nor the ILO has enforcement powers on shipping firms. It is left to individual member states and the relevant authorities to apply and enforce their own laws on shipping and seafarers. State authorities inspect ships as they enter their ports, ensure that the seafarers recruited are qualified and competent for ship duty, apply fines for violators, make arrests, detain ships, or file complaints in court. When a ship is registered in a foreign land, owned by a citizen of a different nationality, and with foreign officers and crew, local authorities may not see any benefit in fighting a shipowner in court (ICONS 2000).

Conclusions

The fiction and realities of industrial relations in the Philippine seafaring industry are indicators of the hurdles facing industrial democracy in a transient workplace such as foreign owned global ships with multinational crew. The determination of standards on education and training, working hours, employment, and pay shows the subordination of national labor regulations to the demands of the global maritime labor market. International organizations of both shipping employers (International Shipping Federation, the IMEC, the national shipping registers, etc.) and trade unions (ITF) play a significant role in determining terms and conditions of employment of not only

Filipinos, but also of all the other global seafarers. Collective bargaining is highly globalized, as shown by the case of the frozen benchmark pay rate for seafarers and the forthcoming consolidation of maritime labor standards in the ILO. In a sense, Filipino seafarers sink or swim in the rough seas of the highly globalized maritime industry. Unfortunately, globalized industrial democracy for Filipino seafarers, however imaginary, may be the exception, rather than the rule in Philippine industrial relations. The standard Philippine seafarer employment contract gives jurisdiction over labor disputes to the National Labor Relations Commission. ITF pay rates are not applied uniformly to all seafarers: the federation's Philippine affiliates (AMOSUP and PSU) have lower pay scales. Philippine seafarers are indeed in the twilight zone of national labor laws and global shipping.

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References

- Amante, Maragtas S.V. 2003. "Philippine Seafarers in the Global Labour Market: A Profile." Working paper, Seafarers International Research Centre (SIRC), Cardiff University, Wales.
- Bacungan, Froilan, and Rene Ofreneo. 2002. "The Development of Labour Law and Labour Market Policy in the Philippines." In *Law and Labour Market Regulation in East Asia*, ed. Sean Cooney, Tim Lindsey, Richard Mitchell, and Ying Zhu. London: Routledge, pp. 91–121.
- Department of Labor and Employment (DOLE), Philippines. 2003. <http://www.dole.gov.ph>.
- Fashoyin, Tayo. 2002. "Social Dialogue and Labour Market Performance in the Philippines." Working paper, ILO Infocus Programme on Social Dialogue, Geneva.
- International Labour Organisation. Joint Maritime Commission. 2002. "Recommendation 1958 (No. 109): Updating of the Minimum Basic Wage of Able Seamen." <http://www.ilo.org/public/english/dialogue/sector/techmeet/jmc96/wages2.htm>.
- International Commission on Shipping (ICONS). 2000. "Ships, Slaves and Competition. Inquiry Into Ship Safety." Charleston NSW, Australia: ICONS. <http://www.icons.org.au>.
- Lane, Tony, Bernardo Obando-Rojas, Bin Wu, and Ali Tasiran. 2002. *Crewing the International Merchant Fleet*. Surrey: Lloyd's Register-Fairplay.
- National Statistics Office (NSO), Philippines. 2003. "Philippine Key Indicators." <http://www.census.gov.ph/data>.
- Philippine Government. 1974. Labor Code of the Philippines. <http://www.chanrobles.com/legal4labor4.htm>.

- Philippine Overseas Employment Administration (POEA). 2003. "Standard Employment Contract for Seafarers." <http://www.poea.gov.ph>.
- Seafarers International Research Centre (SIRC), Cardiff University. 2003. *Global Labour Market Study 2003*. Forthcoming. Wales: SIRC-Cardiff University.
- Traub-Merz, Rudolf. 2002. "Towards a New Philippine Labor Movement." Working paper, Friedrich Ebert Stiftung Area Office, Manila.