

TRIPARTITE INDUSTRIAL PEACE COUNCIL

RESOLUTION NO. 6

Series of 2013

“Calling on All Government Branches, Instrumentalities and Agencies to Uphold the Promotion, Recognition and Protection of Rights of Public Sector Employees”

WHEREAS, the Philippine Government adopted tripartism as a State policy by virtue of Article XIII, Section 3 (Social Justice and Human Rights) of the Philippine Constitution; ILO Convention No. 144, *“Tripartite Consultations to Promote the Implementation of International Labor Standards”*, which established a mechanism for tripartite consultations to promote the implementation of International Labour Standards, and Republic Act No. 10395, *“An Act Strengthening Tripartism, Amending for the Purpose Article 275 of Presidential Decree No. 442, As Amended, Otherwise Known as the “Labor Code of the Philippines”*, which prescribed the representation of workers and employers in decision and policy-making bodies of the government and institutionalized the National Tripartite Industrial Peace Council (TIPC) for such purpose;

WHEREAS, the TIPC is the main consultative and advisory mechanism lodged with the Department of Labor and Employment (DOLE) which functions primarily as a body where the social partners – workers, employers and government – engage in a social dialogue to discuss relevant policy issuances concerning labor and employment.

WHEREAS, Article II, Section 18 of the 1987 Philippine Constitution stipulates that *“The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare”*;

WHEREAS, Article III, Section 8 of the 1987 Philippine Constitution states that *“The right of people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged”*;

WHEREAS, the Platform and Policy Pronouncements on Labor and Employment of the present administration include aligning our country’s labor policies with international treaties and ILO Conventions;

WHEREAS, the Philippine Labor and Employment Plan 2011-2016 recognizes that the attainment of inclusive growth through decent work requires the promotion and protection of the rights of workers as embodied in the following core ILO Conventions:

1. The rights to form or join trade unions and workers’ organizations of one’s choosing and without distinction whatsoever and the promotion of the rights to organize and the right to free collective bargaining with management (C87 on Freedom of Association and Protection of the Right to Organize; C98 on Collective Bargaining);
2. Freedom from forced and bonded labor, involuntary servitude, slavery or slave-like conditions at work (C29 on Forced Labor; C105 on Abolition of Forced Labor);
3. Freedom from discrimination at work, including getting equal pay for work of equal value (C100 on Equal Remuneration; C111 on Discrimination [Employment and Occupation]); and

4. Elimination of the worst forms of child labor (C138 on Minimum Age for Employment; C182 on Worst Forms of Child Labor).

WHEREAS, on 29 December 1953, the Philippine Government ratified ILO Convention No. 94, Labour Clauses (Public Contracts), which aims to prevent public authorities from entering into contracts involving the employment of workers – whether for construction of public works, manufacture of goods or supply of services – at conditions below an acceptable level of social protection, and to encourage public authorities to raise the bar and act as model employers;

WHEREAS, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) has commented on the need to insert labour clauses in public contracts to comply with the requirements of C94, to ensure that workers engaged in the implementation of public contracts (whether works, goods or services) enjoy wages and other working conditions not less favorable than those fixed by national laws, regulations, collective agreements, or arbitration awards for work of the same character in the same area;

WHEREAS, the Philippine Government has yet to ratify the Labour Relations (Public Service) Convention, 1978 (No. 151), which guarantees government workers the rights to organize and bargain collectively, and establishes that disputes related to the determination of the terms and conditions of employment should be resolved through negotiations or through impartial and independent machinery;

WHEREAS, the Public Sector Labor Management Council (PSLMC) is composed of five (5) member agencies – Department of Finance (DOF), Department of Budget and Management (DBM), Department of Labor and Employment (DOLE), Department of Justice (DOJ) and the Civil Service Commission (CSC) – with full voting power pursuant to Executive Order No. 180, and is joined by eight (8) sectoral representatives from national government agencies (NGAs), local government units (LGUs), state universities and colleges (SUC) and government owned and controlled corporations (GOCCs) who only act as observers, without voting privileges;

WHEREAS, the tripartite stakeholders believe that one of the serious issues and challenges faced by public sector workers in the Philippines is the constricting and contradicting environment in the exercise of fundamental principles and rights at work, particularly with respect to freedom of association and collective negotiation, as shown by reports, complaints and alarming cases of violations thereof that affect the Philippines' compliance to international commitments;

WHEREAS, certain provisions of the following issuances were found to be in non-conformance with the rights of public sector workers and of the principles of C87:

1. EO No. 180 which recognizes the right of government workers to organize, but limits the form in which they can bargain collectively by prohibiting their right to strike;
2. CSC Memorandum Circular No. 6, series of 1987 which supplemented EO No. 180 and which also prohibits government workers from resorting to strikes and further limits their means of action;
3. PSLMC Resolution No. 2, series of 2004, "Approving and Adopting the Amended Rules and Regulations Governing the Exercise of the Right of Government Employees to Organize";
4. DBM Circular No. 2012-4 on the Guidelines on the Grant of Collective Negotiation Agreement (CNA) Incentive for FY 2012, which limited the CNA Incentive for FY 2012 for public sector employees by setting a ceiling amount of P25,000 per qualified employee;

5. DBM Circular No. 2011-5 on the Supplemental Guidelines on the Grant of Collective Negotiation Agreement (CNA) Incentive for Fiscal Year (FY) 2011, which defeats the purpose of collective negotiation in the public sector since the monetary limitations leave no room for negotiation on cash incentives; and
6. DBM-DOH Joint Circular No. 1, s. 2012 on the Rules and Regulations on the Grant of Compensation-Related Magna Carta Benefits to Public Health Workers, which is in direct contravention of Section 37 of Republic Act No. 7305 that prohibits alteration or diminution of benefits already received or have yet to be implemented.

WHEREAS, in order to reinforce the promotion and protection of public sector workers' rights, the Philippine Government (both as Government and employer) should demonstrate its commitment in upholding the same at all times;

NOW THEREFORE, BE IT RESOLVED, AS IT IS HEREBY RESOLVED, that the TIPC, duly constituted as the High Level Tripartite Monitoring Body on the Application of International Labor Standards, in particular ILO Convention on Freedom of Association and Protection of the Right to Organize, recommends the Office of the President to undertake and/or facilitate the following:

1. Ratification of ILO Convention 151;
2. Issuance of an Executive Order institutionalizing social dialogue in the public sector;
3. Amend EO 180 to strengthen the Public Sector Labor Management Council (PSLMC) by instituting labor representatives as regular members, among others; and
4. Defer implementation of issuances that work against the rights of public sector workers and of the principles of C87.

RESOLVED FURTHER, to urge concerned agencies to undertake the following:

1. For the Government Procurement and Policy Board (GPPB) to issue a Memorandum Circular addressing the inclusion of labour clauses in public contracts to comply with ILO Convention 94 and to develop a mechanism to monitor compliance therewith;
2. For the Civil Service Commission as Chair of the PSLMC, to revoke issuances with provisions found to be in violation of the rights of public sector workers to organize and negotiate collectively, such as PSLMC Resolution on Registration and Accreditation of Public Elementary and High School Teaching Personnel Organization in the Department of Education;
3. For the Department of Budget and Management to recall Budget Circular No. 2011-5 dated December 26, 2011 and to review and modify the implementation of Executive Order No. 80 dated July 20, 2012 (Performance Based Incentive System for Government Employees), which impede the right of public sector workers to negotiate collectively;
4. For the Commission on Audit to respect the implementation of all collective agreements and recall all disallowances issued in this regard;
5. For the executive branch with approved Rationalization Plan to cease from engaging job order personnel, contract of service staff, false volunteers (under the guise of volunteerism to gain work experience) and other precarious type of work arrangements, consistent with CSC Memorandum Circular 17-2002 pursuant to *CSC Resolution No. 02-0790*;

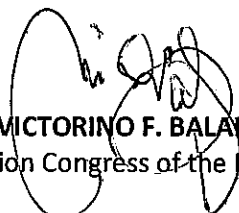
6. For the executive branch to work on the equalization of pay between local government employees and national government employees consistent with ILO Convention 100 and Convention 111; and
7. For the executive branch to work on August 31, 2012 National Workers Congress recommendation for Salary Standardization Law 4 to promote "decent pay for a decent living" of the rank and file in the public sector.

APPROVED this 15th day of July 2013 at The Bayleaf, Intramuros, Manila.

LABOR SECTOR


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Trade Union Congress of the Philippines


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BENJAMIN C. ALAR

National Confederation of Labor


JESUS B. VILLAMOR

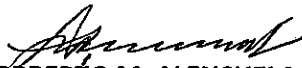
Trade Union Congress of the Philippines



ERNESTO M. PRIAS


National Federation of Labor Unions

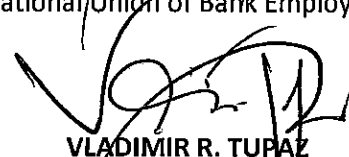

ALEJANDRO C. VILLAVIZA

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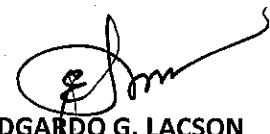

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Workers Union

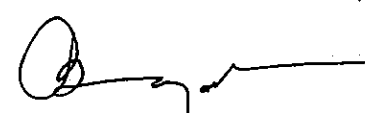

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EMPLOYERS' SECTOR

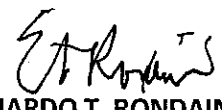

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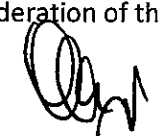

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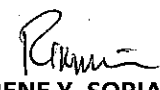

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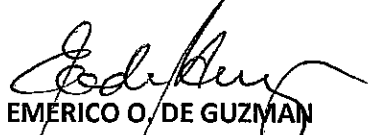
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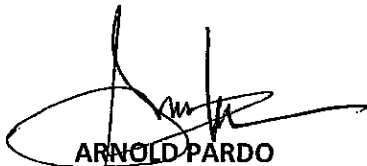


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GOVERNMENT SECTOR



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