CHURCH PEOPLE - WORKERS SOLIDARITY

Human Dignity * Common Good

"Church People and Workers in Solidarity, Reclaim the Dignity of Human Work!"

Church People-Workers SOLIDARITY
Room 106, CICM Guest House Building
No. 60, 14th Street, New Manila, Quezon City
Telefax no. (02) 584-3190
Mobile: 0922.386.3594; 0946.468.9826
Email Address: churchfortheworkers@gmail.com

Para-legal Basic Course

PARA-LEGAL BASIC COURSE

Layunin:

1. Malaman ang batas paggawa at karapatan ng mga manggagawa;
2. Maisapraktika ang kaalamang legal para sa pagsusulong ng interes ng manggagaawa sa loob at labas ng pagawaan.

BALANGKAS NG KURSO

I. DECLARATION OF POLICY (STRUCTURE)
   A. Social Justice
   B. Bill of Rights
   C. Labor Code Provision

I. LABOR RELATION
   A. Labor Organization
   B. Unfair labor Practice
   C. Collective Bargaining
   D. Grievance Machinery and Arbitration
   E. Strike and Lock-Out

I. LABOR STANDARD
   A. Working Condition
   B. Wages
   C. Health, Safety and Social Welfare.

Mga Batas na Salalayan ng Karapatang Pangmanggagawa:

a. Saligang Batas ng Pilipinas:

Artikulo II. (PAHAYAG NG MGA SIMULAIN AT MGA PATAKARAN NG ESTADO)

Seksyon 18. Naninindigan ang estado na ang paggawa ay isang **pangunahing pwersang pangkabuhayan** ng

ARTICLE 165. Administration of safety and health laws. –

(a) The Department of Labor and Employment shall be solely responsible for the administration and enforcement of occupational safety and health laws, regulations and standards in all establishments and workplaces wherever they may be located; however, chartered cities may be allowed to conduct industrial safety inspections of establishments within their respective jurisdictions where they have adequate facilities and competent personnel for the purpose as determined by the Department of Labor and Employment and subject to national standards established by the latter.

(b) The Secretary of Labor and Employment may, through appropriate regulations, collect reasonable fees for the inspection of steam boilers, pressure vessels and piping's and electrical installations, the test and approval for safe use of materials, equipment and other safety devices and the approval of plans for such materials, equipment and devices. The fee so collected shall be deposited in the national treasury to the credit of the occupational safety and health fund and shall be expended exclusively for the administration and enforcement of safety and other labor laws administered by the Department of Labor and Employment.

associations, shall establish the qualifications, criteria and conditions of employment of such health personnel.

ARTICLE 161. Assistance of employer. – It shall be the duty of any employer to provide all the necessary assistance to ensure the adequate and immediate medical and dental attendance and treatment to an injured or sick employee in case of emergency.

Chapter II
OCCUPATIONAL HEALTH AND SAFETY

ARTICLE 162. Safety and health standards. – The Secretary of Labor and Employment shall, by appropriate orders, set and enforce mandatory occupational safety and health standards to eliminate or reduce occupational safety and health hazards in all workplaces and institute new, and update existing, programs to ensure safe and healthful working conditions in all places of employment.

ARTICLE 163. Research. – It shall be the responsibility of the Department of Labor and Employment to conduct continuing studies and research to develop innovative methods, techniques and approaches for dealing with occupational safety and health problems; to discover latent diseases by establishing causal connections between diseases and work in environmental conditions; and to develop medical criteria which will assure insofar as practicable that no employee will suffer impairment or diminution in health, functional capacity, or life expectancy as a result of his work and working conditions.

ARTICLE 164. Training programs. – The Department of Labor and Employment shall develop and implement training programs to increase the number and competence of personnel in the field of occupational safety and industrial health.

lipunan. Dapat nitong pangalagaan ang karapatan ng mga manggagawa at itaguyod ang kanilang kagalingan. [1]

Artikulo III. (KATIPUNAN NG MGA KARAPATAN)

Seksyon 8. Hindi dapat hadlangan ang **karapatan** ng mga taong-bayan kabilang ang mga naglilingkod sa publiko at pribadong sektor **na magtatag ng mga asosasyon, mga unyon, o mga kapisanan** sa mga layuning hindi labag sa batas. [2]

"Kabilang ang naglilingkod sa publiko at pribadong sektor na magtatag ng unyon" nagbigay ng bagong karapatan para sa mga empleyado ng gobyerno ng karapatan upang magbuo ng unyon (pero walang karapatang makipag CBA at magwelga).

Artikulo XIII (KATARUNGANG PANLIPUNAN AT MGA KARAPATANG PANTAO) – PAGGAWA.

Seksyon 3. Dapat magkaloob ang Estado ng lubos na **proteksyon sa paggawa**, sa lokal at ibayong dagat, organisado at di-organisado, at dapat itaguyod ang **puspusang employment** at **pantay na mga pagkakataon sa employment** para sa lahat.

Dapat nitong garantiyahan ang **mga karapatan** ng lahat ng mga manggagawa na **magtatag ng sariling organisasyon, sama-samang pakikipagkasundo at negosasyon**, **mapayapa at magkakaugnay na pagkilos**, kasama ang karapatang **magwelga** nang naaalinsunod sa

[1] The state affirms labor as a primary social economic force. It shall protect the rights of the workers and promote their welfare. Cf. Article on Social Justice infra.

[2] The right of the 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.

batas. Dapat na may karapatan sila sa **katatagan sa trabaho**, sa **makataong mga kalagayan** at **sa sahod na sapat ikabuhay**. Dapat din silang lumahok sa mga **proseso ng pagbabalangkas ng patakaran at desisyon na may kinalaman sa kanailang mga karapatan at benepisyo** ayon sa maaaring itadhana ng batas.

Dapat itaguyod ng estado ang prinsipyo ng hatiang pananagutan ng mga manggagawa at mga employer at ang kinatigang paggamit ng boluntaryong mga pamamamaraan ng pag-sasa-ayos sa mga hidwaan, kabilang ang konsilyasyon, at dapat ipatupad ang pagtalima rito ng isa't isa upang maisulong ang katiwasayang industriyal.

Dapat regulahin ng Estado ang ugnayan ng mga manggagawa at mga employer, dahil sa pagkilala sa karapatang kaparte nito sa mga bunga ng produksyon at sa karapatan ng mga negosyo sa makatwirang tubo sa mga pamumuhunan, at sa paglawak at paglago. [3]

Kababaihan.

Seksyon 14. Dapat pangalagaan ng Estado ang mga kababaihang nagtatrabaho sa pamamagitan ng paglalaan ng lilgtas at nakapagpapalusog na mga kalagayan sa pagtatrabaho, na nagsasaalang-alang ng kanilang mga gawain bilang ina, at ng mga kaluwagan at mga pagkakataon na nagpapatingkad sa kanilang ikagagaling at ikagiginhawa

[3] The state shall afford protection to labor, local and overseas, organized and unorganized, and promote full employment and equality of employment opportunities for all.

It shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities including the right to strike in accordance with law. They shall be entitled to security of tenure, humane conditions of work, and a living wage. They shall also participate in policy and decision-making processes affecting their rights and benefits as may be provided by law.

infirmary or emergency hospital with one bed capacity for every one hundred (100) employees when the number of employees exceeds three hundred (300).

In cases of hazardous workplaces, no employer shall engage the services of a physician or a dentist who cannot stay in the premises of the establishment for at least two (2) hours, in the case of those engaged on part-time basis, and not less than eight (8) hours, in the case of those employed on full-time basis. Where the undertaking is non-hazardous in nature, the physician and dentist may be engaged on retainer basis, subject to such regulations as the Secretary of Labor and Employment may prescribe to insure immediate availability of medical and dental treatment and attendance in case of emergency. (As amended by Presidential Decree NO. 570-A, Section 26).

ARTICLE 158. When emergency hospital not required. – The requirement for an emergency hospital or dental clinic shall not be applicable in case there is a hospital or dental clinic which is accessible from the employers establishment and he makes arrangement for the reservation therein of the necessary beds and dental facilities for the use of his employees.

ARTICLE 159. Health program. – The physician engaged by an employer shall, in addition to his duties under this Chapter, develop and implement a comprehensive occupational health program for the benefit of the employees of his employer.

ARTICLE 160. Qualifications of health personnel. – The physicians, dentists and nurses employed by employers pursuant to this Chapter shall have the necessary training in industrial medicine and occupational safety and health. The Secretary of Labor and Employment, in consultation with industrial, medical, and occupational safety and health

Chapter I
MEDICAL AND DENTAL SERVICES

ARTICLE 156. First-aid treatment. – Every employer shall keep in his establishment such first-aid medicines and equipment as the nature and conditions of work may require, in accordance with such regulations as the Department of Labor and Employment shall prescribe.

The employer shall take steps for the training of a sufficient number of employees in first-aid treatment.

ARTICLE 157. Emergency medical and dental services. – It shall be the duty of every employer to furnish his employees in any locality with free medical and dental attendance and facilities consisting of:

(a) The services of a full-time registered nurse when the number of employees exceeds fifty (50) but not more than two hundred (200) except when the employer does not maintain hazardous workplaces, in which case, the services of a graduate first-aider shall be provided for the protection of workers, where no registered nurse is available. The Secretary of Labor and Employment shall provide by appropriate regulations, the services that shall be required where the number of employees does not exceed fifty (50) and shall determine by appropriate order, hazardous workplaces for purposes of this Article;

(b) The services of a full-time registered nurse, a part-time physician and dentist, and an emergency clinic, when the number of employees exceeds two hundred (200) but not more than three hundred (300); and

(c) The services of a full-time physician, dentist and a full-time registered nurse as well as a dental clinic and an

upang matamo ang kanilang ganap na potensyal sa paglilingkod sa bansa. [4]

Article XII – NATIONAL ECONOMY AND PATRIMONY

Section 17. In times of national emergency, when the public interest so requires, the State may, during the emergency and under reasonable terms prescribed by it, temporarily take over or direct operation of any privately owned public utility or business affected with public interest.

II. LABOR RELATIONS

POLICY –

Article 211. Declaration of Policy. It is the policy of the State:

a. To promote and emphasize the primacy of free collective bargaining and negotiations, including voluntary arbitration, mediation, conciliation, as modes of settling labor or industrial disputes;
b. To promote free trade unionism as an instrument for the enhancement of democracy and the promotion of social justice and development;
c. To foster the free and voluntary organization of a strong and united labor movement;

[4] The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full protection in the service of the nation.

d. To promote the enlightenment of workers concerning their rights and obligations as union members and as employees;
e. To provide an adequate administrative machinery for the expeditious settlement of labor or industrial disputes;
f. To ensure a stable but dynamic and just industrial peace; and,
g. To ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.

b. To encourage a truly democratic method of regulating the relations between the employer and employees by means of agreements freely entered into through collective bargaining, no court or administrative agency or official shall have the power to set or fix wages, rates of pay, hours of work or other terms and conditions of employment, except as otherwise provided under this Code.

CHAPTER II – DEFINITIONS

Article 212. Definitions –

a. 'Commission' means the National Labor Relations Commission or any of this divisions, as the case may be, as provided under this Code;
b. 'Bureau' means the Bureau of Labor Relations and /or the Labor Relations Division in the regional offices established under Presidential Decree No. 1 in the Department of Labor.
c. 'Board' means the National Conciliation and Mediation Board established under Executive Order No. 126.
d. 'Council' means the Tripartite Voluntary Arbitration Advisory Council established under Executive Order No. 126, as amended.

deductions or requiring deposits is a recognized one, or is necessary or desirable as determined by the Secretary of Labor and Employment in appropriate rules and regulations.

ARTICLE 115. Limitations. – No deduction from the deposits of an employee for the actual amount of the loss or damage shall be made unless the employee has been heard thereon, and his responsibility has been clearly shown.

ARTICLE 116. Withholding of wages and kickbacks prohibited. - It shall be unlawful for any person, directly or indirectly, to withhold any amount from the wages of a worker or induce him to give up any part of his wages by force, stealth, intimidation, threat or by any other means whatsoever without the workers consent.

ARTICLE 117. Deduction to ensure employment. – It shall be unlawful to make any deduction from the wages of any employee for the benefit of the employer or his representative or intermediary as consideration of a promise of employment or retention in employment.

ARTICLE 118. Retaliatory measures. – It shall be unlawful for an employer to refuse to pay or reduce the wages and benefits, discharge or in any manner discriminate against any employee who has filed any complaint or instituted any proceeding under this Title or has testified or is about to testify in such proceedings.

ARTICLE 119. False reporting. – It shall be unlawful for any person to make any statement, report, or record filed or kept pursuant to the provisions of this Code knowing such statement, report or record to be false in any material respect.

C. Health, Safety and Social Service

(b) It shall be unlawful for any person to demand or accept, in any judicial or administrative proceedings for the recovery of wages, attorneys fees which exceed ten percent of the amount of wages recovered.

Chapter IV
PROHIBITIONS REGARDING WAGES

ARTICLE 112. Non-interference in disposal of wages. – No employer shall limit or otherwise interfere with the freedom of any employee to dispose of his wages. He shall not in any manner force, compel, or oblige his employees to purchase merchandise, commodities or other property from any other person, or otherwise make use of any store or services of such employer or any other person.

ARTICLE 113. Wage deduction. – No employer, in his own behalf or in behalf of any person, shall make any deduction from the wages of his employees, except:
(a) In cases where the worker is insured with his consent by the employer, and the deduction is to recompense the employer for the amount paid by him as premium on the insurance;
(b) For union dues, in cases where the right of the worker or his union to check-off has been recognized by the employer or authorized in writing by the individual worker concerned; and
(c) In cases where the employer is authorized by law or regulations issued by the Secretary of Labor and Employment.

ARTICLE 114. Deposits for loss or damage. – No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss of or damage to tools, materials, or equipment supplied by the employer, except when the employer is engaged in such trades, occupations or business where the practice of making

e. 'Employer' includes any person acting in the interest of an employer, directly or indirectly. The term shall not include any labor organization or any of its officers or agents except when acting as employer;
f. 'Employee' includes any person acting in the interest ….
g. 'Labor organization' means any union or association of employees which exist in whole or in part for the purpose of collective bargaining or of dealing with employers concerning terms and conditions of employment;
h. 'Legitimate labor organization' means any labor organization duly registered with the Department of Labor and Employment, and includes any branch or local thereof;
i. 'Company union' means any labor organization whose formation, function or administration has been assisted by any act defined as unfair labor practice by this Code.
j. 'Bargaining representative' means a legitimate labor organization or any officer or agent of such organization whether or not employed by the employer;
k. 'Unfair labor practice' means any unfair labor practice as expressly defined by this Code.
l. 'Labor dispute' includes any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment regardless of whether the disputants stand in the proximate relation of employer and employee.
m. 'Managerial employee' is one vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer,

suspend, lay-off, recall, discharge, assign or discipline employees. Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely rout nary or clerical in nature but requires the use of independent judgment. All employees not falling within any of the above definitions are considered rank-and-file employees for the purpose of this Book.

n. 'Voluntary Arbitrator' means any person accredited by the Board as such, or any person named or designated in the collective bargaining agreement by the parties to act as their voluntary arbitrator, or one chosen, with or without the assistance of the National Conciliation and Mediation Board, pursuant to a selection procedure agreed upon in the collective bargaining agreement, o any official that may be authorized by the Secretary of Labor and Employment to act as voluntary arbitrator upon the written request and agreement of the parties to a labor dispute.

o. 'Strike' means any temporary stoppage of work by the concerted action of employees as a result of an industrial or labor dispute.

p. 'Lock out' means the temporary refusal of an employer to furnish work as a result of an industrial or labor dispute;

q. 'Internal Union dispute' includes all dispute or grievances arising from any violation of or disagreement over any provision of the constitution and bylaws of a union, including any violation of rights and conditions of union membership provided for this Code.

r. 'Strike breaker' means any person who obstructs, impedes, or interferes, with by force, violence,

ARTICLE 107. Indirect employer. – The provisions of the immediately preceding article shall likewise apply to any person, partnership, association or corporation which, not being an employer, contracts with an independent contractor for the performance of any work, task, job or project.

ARTICLE 108. Posting of bond. – An employer or indirect employer may require the contractor or subcontractor to furnish a bond equal to the cost of labor under contract, on condition that the bond will answer for the wages due the employees should the contractor or subcontractor, as the case may be, fail to pay the same.

ARTICLE 109. Solidary liability. – The provisions of existing laws to the contrary notwithstanding, every employer or indirect employer shall be held responsible with his contractor or subcontractor for any violation of any provision of this Code. For purposes of determining the extent of their civil liability under this Chapter, they shall be considered as direct employers.

ARTICLE 110. Worker preference in case of bankruptcy. – In the event of bankruptcy or liquidation of an employer's business, his workers shall enjoy first preference as regards their wages and other monetary claims, any provisions of law to the contrary notwithstanding. Such unpaid wages and monetary claims shall be paid in full before claims of the government and other creditors may be paid. (As amended by Section 1,Republic Act No. 6715, March 21, 1989).

ARTICLE 111. Attorneys fees. – (a) In cases of unlawful withholding of wages, the culpable party may be assessed attorneys fees equivalent to ten percent of the amount of wages recovered.

ARTICLE 106. Contractor or subcontractor. – Whenever an employer enters into a contract with another person for the performance of the formers work, the employees of the contractor and of the latter subcontractor, if any, shall be paid in accordance with the provisions of this Code.

In the event that the contractor or subcontractor fails to pay the wages of his employees in accordance with this Code, the employer shall be jointly and severally liable with his contractor or subcontractor to such employees to the extent of the work performed under the contract, in the same manner and extent that he is liable to employees directly employed by him.

The Secretary of Labor and Employment may, by appropriate regulations, restrict or prohibit the contracting-out of labor to protect the rights of workers established under this Code. In so prohibiting or restricting, he may make appropriate distinctions between labor-only contracting and job contracting as well as differentiations within these types of contracting and determine who among the parties involved shall be considered the employer for purposes of this Code, to prevent any violation or circumvention of any provision of this Code.

There is **"labor-only" contracting** where the person supplying workers to an employer does not have substantial capital or investment in the form of tools, equipment, machineries, work premises, among others, and the workers recruited and placed by such person are performing activities which are directly related to the principal business of such employer. In such cases, the person or intermediary shall be considered merely as an agent of the employer who shall be responsible to the workers in the same manner and extent as if the latter were directly employed by him.

coercion, threats or any peaceful picketing by employees during any labor controversy affecting wages, hours or conditions of work on in the exercise of the right of self-organization or collective bargaining;

s. 'Strike Area' means the establishment, warehouses, depots, plants or offices, including the sites or premises used as runaway ships, of the employer struck against as well as the immediate vicinity used by picketing strikers in moving to and from before all points of entrance to and exit from said establishment.

B. LABOR ORGANIZATION

Chapter I – Registration and Cancellation

Article 234. **Requirements of Registration.**

a. Registration Fee (P50).
b. Names of Officers, addresses, the principal address of labor organization, minutes of the organizational meetings and the list of workers who; participated in that meetings;
c. The names of all its members comprising at least 20% of all employees in the bargaining unit where it seeks to operate;(as amended by Executive Order No. 111, December 24.1986)
d. 2 Copies of the annual financial report (if the union's existence more than one year);
e. 4 copies of Constitutions and By Laws, minutes of its adoption or ratification, and the list of the members who participated in it. (As Amended by Batas Pambansa Bilang 130, August 21, 1981).

Cf do #9

c. RIGHTS OF LEGITIMATE LABOR ORGANIZATION

Article 242. Rights of Legitimate labor organizations- A legitimate labor organization have the right:

a) To act as the representative of its members for the purpose of Collective of Bargaining;
b) To be certified as the exclusive representative of all the employees in a appropriate bargaining unit purposes of collective bargaining;
c) To be furnished by the employer, upon written request, with its annual audited financial statements, including the balance sheet and the profit and loss statement, within thirty (30)calendar days from the date of receipt of request, after the union has been duly recognized by the employer or certified as the sole and exclusive bargaining representative of the employees in the bargaining unit, or within sixty(60) calendar days before the expiration of the existing collective bargaining agreement, or during the collective bargaining negotiation;
d) To own property, real or personal, for the use and the benefit of the labor organization and its members;
e) To sue and be sued in its registered name; and
f) To undertake all other activities designed to benefit the organization and its members, including cooperative, housing, welfare and other projects not contrary to law.

Notwithstanding any provision of a general or special law to the contrary, the income and the properties of legitimate labor organizations, including grants, endowments, gifts, donations and contributions they may receive from fraternal and similar organizations, local or foreign, which are actually, directly and exclusively used for their lawful purposes, shall be free from taxes, duties and other

(16) days, in proportion to the amount of work completed;

(2) That final settlement is made upon completion of the work.

ARTICLE 104. Place of payment. – Payment of wages shall be made at or near the place of undertaking, except as otherwise provided by such regulations as the Secretary of Labor and Employment may prescribe under conditions to ensure greater protection of wages.

ARTICLE 105. Direct payment of wages. – Wages shall be paid directly to the workers to whom they are due, except:

(a) In cases of force majeure rendering such payment impossible or under other special circumstances to be determined by the Secretary of Labor and Employment in appropriate regulations, in which case, the worker may be paid through another person under written authority given by the worker for the purpose; or

(b) Where the worker has died, in which case, the employer may pay the wages of the deceased worker to the heirs of the latter without the necessity of intestate proceedings. The claimants, if they are all of age, shall execute an affidavit attesting to their relationship to the deceased and the fact that they are his heirs, to the exclusion of all other persons. If any of the heirs is a minor, the affidavit shall be executed on his behalf by his natural guardian or next-of-kin. The affidavit shall be presented to the employer who shall make payment through the Secretary of Labor and Employment or his representative. The representative of the Secretary of Labor and Employment shall act as referee in dividing the amount paid among the heirs. The payment of wages under this Article shall absolve the employer of any further liability with respect to the amount paid.

by results, including pakyao, piecework, and other non-time work, in order to ensure the payment of fair and reasonable wage rates, preferably through time and motion studies or in consultation with representatives of workers and employers organizations.

Chapter III
PAYMENT OF WAGES

ARTICLE 102. Forms of payment. – No employer shall pay the wages of an employee by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than legal tender, even when expressly requested by the employee. Payment of wages by check or money order shall be allowed when such manner of payment is customary on the date of effectivity of this Code, or is necessary because of special circumstances as specified in appropriate regulations to be issued by the Secretary of Labor and Employment or as stipulated in a collective bargaining agreement.

ARTICLE 103. Time of payment. – Wages shall be paid at least once every two (2) weeks or twice a month at intervals not exceeding sixteen (16) days. If on account of force majeure or circumstances beyond the employers control, payment of wages on or within the time herein provided cannot be made, the employer shall pay the wages immediately after such force majeure or circumstances have ceased. No employer shall make payment with less frequency than once a month.

The payment of wages of employees engaged to perform a task which cannot be completed in two (2) weeks shall be subject to the following conditions, in the absence of a collective bargaining agreement or arbitration award:

(1) That payments are made at intervals not exceeding sixteen

assessments. The exemptions provided herein may be withdrawn only bay a special law expressly repealing this provision. (As amended by **Section 17, Republic Act No. 6715, March 21, 1989).**

B. Unfair Labor Practice

Article 247. Concept of Unfair Labor Practice and procedure for prosecution thereof. - Unfair labor practices violate the constitutional right of the workers and the employees to self organization, are inimical to the legitimate interest of both labor and management, including their right to bargain collectively and otherwise deal with each other in an atmosphere of freedom and mutual respect, disrupt industrial peace and hinder the promotion of the healthy and stable labor management relations.

Consequently, unfair labor practices are not only violations of the civil rights of both labor and management but are also criminal offenses against the state which shall be subject to prosecution as punishment as here in provided.

Subject to exercises by the President or by the Secretary of Labor and Employment of the Powers vested in them by Articles 263 and 264 of this code, the civil aspects of all cases involving unfair labor practices, which may include claims for actual, moral, exemplary and other forms of damages, attorneys fees and other affirmative relief, shall be under the jurisdiction of the Labor Arbiters.

The Labor Arbiters shall give utmost priority to the hearing and the resolution of all cases involving unfair labor practices. They shall resolve such cases within thirty (30) calendar days from the time they are submitted fro decision.

Recovery of civil liability in the administrative proceeding shall bar recovery under the Civil Code.

No criminal prosecution under this title may be instituted without a final judgment finding that an unfair labor practice was committed, having been first obtained in the preceding paragraph. During the pendency of such administrative proceeding, the running period of prescription of the criminal offenses herein penalized shall be considered interrupted: Provided, however, that the final judgment in the administrative proceedings shall not be binding in the criminal case nor be considered as evidence of guilt but merely as proof of compliance of the requirements therein set forth. (As amended by the Batas Pambansa Bilang 70, May 1, 1980 and later further amended by Section 19, Republic Act No. 6715, March 21, 1989).

UNFAIR LABOR PRACTICES OF EMPLOYERS

ARTICLE 248. Unfair labor practices of employers. – It shall be unlawful for an employer to commit any of the following unfair labor practice:

(a) To interfere with, restrain or coerce employees in the exercise of their right to self-organization;
(b) To require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs;

(c) To contract out services or functions being performed by union members when such will interfere with, restrain or coerce employees in the exercise of their rights to self-organization;

of directors or trustees or the partners holding the controlling interest in the case of a partnership vote to accept the reduced offer, the workers shall immediately return to work and the employer shall thereupon readmit them upon the signing of the agreement. (Incorporated by Section 28, Republic Act No. 6715, March 21, 1989).

ARTICLE 266. Requirement for arrest and detention. – Except on grounds of national security and public peace or in case of commission of a crime, no union members or union organizers may be arrested or detained for union activities without previous consultations with the Secretary of Labor.

III. Labor Standard

A. Working Condition ???

B. Wages

MINIMUM WAGE RATES

ARTICLE 99. Regional minimum wages. – The minimum wage rates for agricultural and non-agricultural employees and workers in each and every region of the country shall be those prescribed by the Regional Tripartite Wages and Productivity Boards. (As amended by Section 3, Republic Act No. 6727, June 9, 1989).

ARTICLE 100. Prohibition against elimination or diminution of benefits. – Nothing in this Book shall be construed to eliminate or in any way diminish supplements, or other employee benefits being enjoyed at the time of promulgation of this Code.

ARTICLE 101. Payment by results. - (a) The Secretary of Labor and Employment shall regulate the payment of wages

(c) No employer shall use or employ any strike-breaker, nor shall any person be employed as a strike-breaker.

(d) No public official or employee, including officers and personnel of the New Armed Forces of the Philippines or the Integrated National Police, or armed person, shall bring in, introduce or escort in any manner, any individual who seeks to replace strikers in entering or leaving the premises of a strike area, or work in place of the strikers. The police force shall keep out of the picket lines unless actual violence or other criminal acts occur therein: Provided, That nothing herein shall be interpreted to prevent any public officer from taking any measure necessary to maintain peace and order, protect life and property, and/or enforce the law and legal order. (As amended by Executive Order No. 111, December 24, 1986).

(e) No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employers premises for lawful purposes, or obstruct public thoroughfares. (As amended by Batas Pambansa Bilang 227, June 1, 1982).

ARTICLE 265. Improved offer balloting. – In an effort to settle a strike, the Department of Labor and Employment shall conduct a referendum by secret ballot on the improved offer of the employer on or before the 30th day of the strike. When at least a majority of the union members vote to accept the improved offer the striking workers shall immediately return to work and the employer shall thereupon readmit them upon the signing of the agreement.

In case of a lockout, the Department of Labor and Employment shall also conduct a referendum by secret balloting on the reduced offer of the union on or before the 30th day of the lockout. When at least a majority of the board

(d) To initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters;

(e) To discriminate in regard to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. Nothing in this Code or in any other law shall stop the parties from requiring membership in a recognized collective bargaining agent as a condition for employment, except those employees who are already members of another union at the time of the signing of the collective bargaining agreement. Employees of an appropriate bargaining unit who are not members of the recognized collective bargaining agent may be assessed a reasonable fee equivalent to the dues and other fees paid by members of the recognized collective bargaining agent, if such non-union members accept the benefits under the collective bargaining agreement: Provided, that the individual authorization required under Article 242, paragraph (o) of this Code shall not apply to the non-members of the recognized collective bargaining agent;

(f) To dismiss, discharge or otherwise prejudice or discriminate against an employee for having given or being about to give testimony under this Code;

(g) To violate the duty to bargain collectively as prescribed by this Code;

(h) To pay negotiation or attorneys fees to the union or its officers or agents as part of the settlement of any issue in collective bargaining or any other dispute; or

(i) To violate a collective bargaining agreement.

UNFAIR LABOR PRACTICES OF LABOR ORGANIZATIONS

ARTICLE 249. Unfair labor practices of labor organizations. – It shall be unfair labor practice for a labor organization, its officers, agents or representatives:

(a) To restrain or coerce employees in the exercise of their right to self-organization. However, a labor organization shall have the right to prescribe its own rules with respect to the acquisition or retention of membership;

(b) To cause or attempt to cause an employer to discriminate against an employee, including discrimination against an employee with respect to whom membership in such organization has been denied or to terminate an employee on any ground other than the usual terms and conditions under which membership or continuation of membership is made available to other members;

(c) To violate the duty, or refuse to bargain collectively with the employer, provided it is the representative of the employees;

(d) To cause or attempt to cause an employer to pay or deliver or agree to pay or deliver any money or other things of value, in the nature of an exaction, for services which are not performed or not to be performed, including the demand for fee for union negotiations;

(e) To ask for or accept negotiation or attorneys fees from employers as part of the settlement of any issue in collective bargaining or any other dispute; or

(f) To violate a collective bargaining agreement. The provisions of the preceding paragraph notwithstanding, only

calendar days after receipt thereof by the parties. (As amended by Section 27, Republic Act No. 6715, March 21, 1989).

ARTICLE 264. Prohibited activities. –

(a) No labor organization or employer shall declare a strike or lockout without first having bargained collectively in accordance with Title VII of this Book or without first having filed the notice required in the preceding Article or without the necessary strike or lockout vote first having been obtained and reported to the Ministry.

No strike or lockout shall be declared after assumption of jurisdiction by the President or the Minister or after certification or submission of the dispute to compulsory or voluntary arbitration or during the pendency of cases involving the same grounds for the strike or lockout.

Any worker whose employment has been terminated as a consequence of any unlawful lockout shall be entitled to reinstatement with full back wages. Any union officer who knowingly participates in an illegal strike and any worker or union officer who knowingly participates in the commission of illegal acts during a strike may be declared to have lost his employment status: Provided, That mere participation of a worker in a lawful strike shall not constitute sufficient ground for termination of his employment, even if a replacement had been hired by the employer during such lawful strike.

(b) No person shall obstruct, impede, or interfere with, by force, violence, coercion, threats or intimidation, any peaceful picketing by employees during any labor controversy or in the exercise of the right to self-organization or collective bargaining, or shall aid or abet such obstruction or interference.

or locking-out employer to provide and maintain an effective skeletal workforce of medical and other health personnel, whose movement and services shall be unhampered and unrestricted, as are necessary to insure the proper and adequate protection of the life and health of its patients, most especially emergency cases, for the duration of the strike or lockout. In such cases, therefore, the Secretary of Labor and Employment may immediately assume, within twenty four (24) hours from knowledge of the occurrence of such a strike or lockout, jurisdiction over the same or certify it to the Commission for compulsory arbitration. For this purpose, the contending parties are strictly enjoined to comply with such orders, prohibitions and/or injunctions as are issued by the Secretary of Labor and Employment or the Commission, under pain of immediate disciplinary action, including dismissal or loss of employment status or payment by the locking-out employer of back wages, damages and other affirmative relief, even criminal prosecution against either or both of them.

The foregoing notwithstanding, the President of the Philippines shall not be precluded from determining the industries that, in his opinion, are indispensable to the national interest, and from intervening at any time and assuming jurisdiction over any such labor dispute in order to settle or terminate the same.

(h) Before or at any stage of the compulsory arbitration process, the parties may opt to submit their dispute to voluntary arbitration.

(i) The Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall decide or resolve the dispute, as the case may be. The decision of the President, the Secretary of Labor and Employment, the Commission or the voluntary arbitrator shall be final and executory ten (10)

the officers, members of governing boards, representatives or agents or members of labor associations or organizations who have actually participated in, authorized or ratified unfair labor practices shall be held criminally liable. (As amended by Batas Pambansa Bilang 130, August 21, 1981).

C. Collective Bargaining

ARTICLE 250. Procedure in collective bargaining. – The following procedures shall be observed in collective bargaining:

(a) When a party desires to negotiate an agreement, it shall serve a written notice upon the other party with a statement of its proposals. The other party shall make a reply thereto not later than ten (10) calendar days from receipt of such notice;

(b) Should differences arise on the basis of such notice and reply, either party may request for a conference which shall begin not later than ten (10) calendar days from the date of request.

(c) If the dispute is not settled, the Board shall intervene upon request of either or both parties or at its own initiative and immediately call the parties to conciliation meetings. The Board shall have the power to issue subpoenas requiring the attendance of the parties to such meetings. It shall be the duty of the parties to participate fully and promptly in the conciliation meetings the Board may call;

(d) During the conciliation proceedings in the Board, the parties are prohibited from doing any act which may disrupt or impede the early settlement of the disputes; and

(e) The Board shall exert all efforts to settle disputes amicably and encourage the parties to submit their case to a voluntary

arbitrator. (As amended by Section 20, Republic Act No. 6715, March 21, 1989).

ARTICLE 251. Duty to bargain collectively in the absence of collective bargaining agreements. – In the absence of an agreement or other voluntary arrangement providing for a more expeditious manner of collective bargaining, it shall be the duty of employer and the representatives of the employees to bargain collectively in accordance with the provisions of this Code.

ARTICLE 252. Meaning of duty to bargain collectively. - The duty to bargain collectively means the performance of a mutual obligation to meet and convene promptly and expeditiously in good faith for the purpose of negotiating an agreement with respect to wages, hours of work and all other terms and conditions of employment including proposals for adjusting any grievances or questions arising under such agreement and executing a contract incorporating such agreements if requested by either party but such duty does not compel any party to agree to a proposal or to make any concession.

ARTICLE 253. Duty to bargain collectively when there exists a collective bargaining agreement. – When there is a collective bargaining agreement, the duty to bargain collectively shall also mean that neither party shall terminate nor modify such agreement during its lifetime. However, either party can serve a written notice to terminate or modify the agreement at least sixty (60) days prior to its expiration date. It shall be the duty of both parties to keep the status quo and to continue in full force and effect the terms and conditions of the existing agreement during the 60-day period and/or until a new agreement is reached by the parties.

the employer shall furnish the Ministry the results of the voting at least seven days before the intended strike or lockout, subject to the cooling-off period herein provided. (As amended by Batas Pambansa Bilang 130, August 21, 1981 and further amended by Executive Order No. 111, December 24, 1986).

(g) When, in his opinion, there exists a labor dispute causing or likely to cause a strike or lockout in an industry indispensable to the national interest, the Secretary of Labor and Employment may assume jurisdiction over the dispute and decide it or certify the same to the Commission for compulsory arbitration. Such assumption or certification shall have the effect of automatically enjoining the intended or impending strike or lockout as specified in the assumption or certification order. If one has already taken place at the time of assumption or certification, all striking or locked out employees shall immediately return-to-work and the employer shall immediately resume operations and readmit all workers under the same terms and conditions prevailing before the strike or lockout. The Secretary of Labor and Employment or the Commission may seek the assistance of law enforcement agencies to ensure compliance with this provision as well as with such orders as he may issue to enforce the same.

In line with the national concern for and the highest respect accorded to the right of patients to life and health, strikes and lockouts in hospitals, clinics and similar medical institutions shall, to every extent possible, be avoided, and all serious efforts, not only by labor and management but government as well, be exhausted to substantially minimize, if not prevent, their adverse effects on such life and health, through the exercise, however legitimate, by labor of its right to strike and by management to lockout. In labor disputes adversely affecting the continued operation of such hospitals, clinics or medical institutions, it shall be the duty of the striking union

employer may file a notice of lockout with the Ministry at least 30 day before the intended date thereof. In cases of unfair labor practice, the period of notice shall be 15 days and in the absence of a duly certified or recognized bargaining agent, the notice of strike may be filed by any legitimate labor organization in behalf of its members. However, in case of dismissal from employment of union officers duly elected in accordance with the union constitution and by-laws, which may constitute union busting, where the existence of the union is threatened, the 15-day cooling-off period shall not apply and the union may take action immediately. (As amended by Executive Order No. 111, December 24, 1986).

(d) The notice must be in accordance with such implementing rules and regulations as the Minister of Labor and Employment may promulgate.

(e) During the cooling-off period, it shall be the duty of the Ministry to exert all efforts at mediation and conciliation to effect a voluntary settlement. Should the dispute remain unsettled until the lapse of the requisite number of days from the mandatory filing of the notice, the labor union may strike or the employer may declare a lock out.

(f) A decision to declare a strike must be approved by a majority of the total union membership in the bargaining unit concerned, obtained by secret ballot in meetings or referenda called for that purpose. A decision to declare a lockout must be approved by a majority of the board of directors of the corporation or association or of the partners in a partnership, obtained by secret ballot in a meeting called for that purpose. The decision shall be valid for the duration of the dispute based on substantially the same grounds considered when the strike or lockout vote was taken. The Ministry may, at its own initiative or upon the request of any affected party, supervise the conduct of the secret balloting. In every case, the union or

ARTICLE 253-A. Terms of a collective bargaining agreement. – Any Collective Bargaining Agreement that the parties may enter into shall, insofar as the representation aspect is concerned, be for a term of five (5) years. No petition questioning the majority status of the incumbent bargaining agent shall be entertained and no certification election shall be conducted by the Department of Labor and Employment outside of the sixty-day period immediately before the date of expiry of such five-year term of the Collective Bargaining Agreement. All other provisions of the Collective Bargaining Agreement shall be renegotiated not later than three (3) years after its execution. Any agreement on such other provisions of the Collective Bargaining Agreement entered into within six (6) months from the date of expiry of the term of such other provisions as fixed in such Collective Bargaining Agreement, shall retroact to the day immediately following such date. If any such agreement is entered into beyond six months, the parties shall agree on the duration of retroactivity thereof. In case of a deadlock in the renegotiation of the Collective Bargaining Agreement, the parties may exercise their rights under this Code. (As amended by Section 21, Republic Act No. 6715, March 21, 1989).

ARTICLE 254. Injunction prohibited. – No temporary or permanent injunction or restraining order in any case involving or growing out of labor disputes shall be issued by any court or other entity, except as otherwise provided in Articles 218 and 264 of this Code. (As amended by Batas Pambansa Bilang 227, June 1, 1982).

ARTICLE 255. Exclusive bargaining representation and workers participation in policy and decision-making.– The labor organization designated or selected by the majority of the employees in an appropriate collective bargaining unit shall be the exclusive representative of the employees in such

unit for the purpose of collective bargaining. However, an individual employee or group of employees shall have the right at any time to present grievances to their employer.

Any provision of law to the contrary notwithstanding, workers shall have the right, subject to such rules and regulations as the Secretary of Labor and Employment may promulgate, to participate in policy and decision-making processes of the establishment where they are employed insofar as said processes will directly affect their rights, benefits and welfare. For this purpose, workers and employers may form labor-management councils: Provided, That the representatives of the workers in such labor-management councils shall be elected by at least the majority of all employees in said establishment. (As amended by Section 22, Republic Act No. 6715, March 21, 1989).

ARTICLE 256. Representation issue in organized establishments. – In organized establishments, when a verified petition questioning the majority status of the incumbent bargaining agent is filed before the Department of Labor and Employment within the sixty-day period before the expiration of the collective bargaining agreement, the Med-Arbiter shall automatically order an election by secret ballot when the verified petition is supported by the written consent of at least twenty-five percent (25%) of all the employees in the bargaining unit to ascertain the will of the employees in the appropriate bargaining unit. To have a valid election, at least a majority of all eligible voters in the unit must have cast their votes. The labor union receiving the majority of the valid votes cast shall be certified as the exclusive bargaining agent of all the workers in the unit. When an election which provides for three or more choices results in no choice receiving a majority of the valid votes cast, a run-off election shall be conducted between the labor unions receiving the two highest number of votes: Provided, that the total number of

ARTICLE 262-B. Cost of voluntary arbitration and Voluntary Arbitrators fee. - The parties to a Collective Bargaining Agreement shall provide therein a proportionate sharing scheme on the cost of voluntary arbitration including the Voluntary Arbitrators fee. The fixing of fee of Voluntary Arbitrators, whether shouldered wholly by the parties or subsidized by the Special Voluntary Arbitration Fund, shall take into account the following factors:

(a) Nature of the case;

(b) Time consumed in hearing the case;

(c) Professional standing of the Voluntary Arbitrator;

(d) Capacity to pay of the parties; and

(e) Fees provided for in the Revised Rules of Court.

E. Strikes and Lock outs

ARTICLE 263. Strikes, picketing and lockouts. – (a) It is the policy of the State to encourage free trade unionism and free collective bargaining.

(b) Workers shall have the right to engage in concerted activities for purposes of collective bargaining or for their mutual benefit and protection. The right of legitimate labor organizations to strike and picket and of employers to lockout, consistent with the national interest, shall continue to be recognized and respected. However, no labor union may strike and no employer may declare a lockout on grounds involving inter-union and intra-union disputes.

(c) In case of bargaining deadlocks, the duly certified or recognized bargaining agent may file a notice of strike or the

ARTICLE 262- A. Procedures. – The Voluntary Arbitrator or panel of Voluntary Arbitrators shall have the power to hold hearings, receive evidences and take whatever action is necessary to resolve the issue or issues subject of the dispute, including efforts to effect a voluntary settlement between parties.

All parties to the dispute shall be entitled to attend the arbitration proceedings. The attendance of any third party or the exclusion of any witness from the proceedings shall be determined by the Voluntary Arbitrator or panel of Voluntary Arbitrators. Hearing may be adjourned for cause or upon agreement by the parties.

Unless the parties agree otherwise, it shall be mandatory for the Voluntary Arbitrator or panel of Voluntary Arbitrators to render an award or decision within twenty (20) calendar days from the date of submission of the dispute to voluntary arbitration.

The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.

Upon motion of any interested party, the Voluntary Arbitrator or panel of Voluntary Arbitrators or the Labor Arbiter in the region where the movant resides, in case of the absence or incapacity of the Voluntary Arbitrator or panel of Voluntary Arbitrators, for any reason, may issue a writ of execution requiring either the sheriff of the Commission or regular courts or any public official whom the parties may designate in the submission agreement to execute the final decision, order or award.

votes for all contending unions is at least fifty percent (50%) of the number of votes cast.

At the expiration of the freedom period, the employer shall continue to recognize the majority status of the incumbent bargaining agent where no petition for certification election is filed. (As amended by Section 23, Republic Act No. 6715, March 21, 1989).

ARTICLE 257. Petitions in unorganized establishments. – In any establishment where there is no certified bargaining agent, a certification election shall automatically be conducted by the Med-Arbiter upon the filing of a petition by a legitimate labor organization. (As amended by Section 24, Republic Act No. 6715, March 21, 1989).

ARTICLE 258. When an employer may file petition. – When requested to bargain collectively, an employer may petition the Bureau for an election. If there is no existing certified collective bargaining agreement in the unit, the Bureau shall, after hearing, order a certification election.

All certification cases shall be decided within twenty (20) working days.

The Bureau shall conduct a certification election within twenty (20) days in accordance with the rules and regulations prescribed by the Secretary of Labor.

ARTICLE 259. Appeal from certification election orders. – Any party to an election may appeal the order or results of the election as determined by the Med-Arbiter directly to the Secretary of Labor and Employment on the ground that the rules and regulations or parts thereof established by the Secretary of Labor and Employment for the conduct of the election have been violated. Such appeal shall be decided

within fifteen (15) calendar days. (As amended by Section 25, Republic Act No. 6715, March 21, 1989).

D. Grievance Machinery and Arbitration

GRIEVANCE MACHINERY AND VOLUNTARY ARBITRATION

ARTICLE 260. Grievance machinery and voluntary arbitration. – The parties to a Collective Bargaining Agreement shall include therein provisions that will ensure the mutual observance of its terms and conditions. They shall establish machinery for the adjustment and resolution of grievances arising from the interpretation or implementation of their Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies.

All grievances submitted to the grievance machinery which are not settled within seven (7) calendar days from the date of its submission shall automatically be referred to voluntary arbitration prescribed in the Collective Bargaining Agreement.

For this purpose, parties to a Collective Bargaining Agreement shall name and designate in advance a Voluntary Arbitrator or panel of Voluntary Arbitrators, or include in the agreement a procedure for the selection of such Voluntary Arbitrator or panel of Voluntary Arbitrators, preferably from the listing of qualified Voluntary Arbitrators duly accredited by the Board. In case the parties fail to select a Voluntary Arbitrator or panel of Voluntary Arbitrators, the Board shall designate the Voluntary Arbitrator or panel of Voluntary Arbitrators, as may be necessary, pursuant to the selection procedure agreed upon in the Collective Bargaining Agreement, which shall act with the same force and effect as

if the Arbitrator or panel of Arbitrators has been selected by the parties as described above.

ARTICLE 261. Jurisdiction of Voluntary Arbitrators or panel of Voluntary Arbitrators. – The Voluntary **Arbitrator or panel of Voluntary Arbitrators** shall have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the Collective Bargaining Agreement and those arising from the interpretation or enforcement of company personnel policies referred to in the immediately preceding article. Accordingly, violations of a Collective Bargaining Agreement, except those which are gross in character, shall no longer be treated as unfair labor practice and shall be resolved as grievances under the Collective Bargaining Agreement. For purposes of this article, gross violations of Collective Bargaining Agreement shall mean flagrant and/or malicious refusal to comply with the economic provisions of such agreement.

The Commission, its Regional Offices and the Regional Directors of the Department of Labor and Employment shall not entertain disputes, grievances or matters under the exclusive and original jurisdiction of the Voluntary Arbitrator or panel of Voluntary Arbitrators and shall immediately dispose and refer the same to the Grievance Machinery or Voluntary Arbitration provided in the Collective Bargaining Agreement.

ARTICLE 262. Jurisdiction over other labor disputes. - The Voluntary Arbitrator or panel of Voluntary Arbitrators, upon agreement of the parties, shall also hear and decide all other labor disputes including unfair labor practices and bargaining deadlocks.