PROBLEMS OF TRANSITION*

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Man is by nature resistant to change because any kind of change is a threat to stability and what is stable, or what passes for stability, is considered safe. Change occasions difficult adjustments and there are people who cannot adjust to anything new. It frightens the conservative, dislocates the skeptical, immobilizes the timid.

But change is necessary, sometimes inevitable. Oftentimes, it is the road that leads precisely to the stability that man seeks. Growth is change; progress is change. Without change, we would still be, at this late age, huddling in small groups in the primeval caves of the world.

The general re-shaping of Filipino society that started with the proclamation of martial law in September 1972 made inevitable the re-structuring of our system of labor relations. But it was not a case of this system being swept along, as it were, in the wake of the tide of change. It was a revision that was long overdue and made possible by the favorable atmosphere in the new order, favorable, that is, to the realization of development-oriented plans long conceived but which did not have enough chance of fulfillment under the conditions prevailing before.

Before the Labor Code came into being in 1974, we had many laws regulating the relations between workers and employers. Some of them dated back the early 1930's, if not earlier. Enacted at different times and under different conditions to achieve varying if parallel objectives, these laws were, at best, loosely connected in concept and application, so that it was not difficult to visualize a situation where, if one law were to be implemented to the letter, some other laws of the same *genre* would apparently be violated at least in principle. There were legal provisions which the Department of Labor was the first to disregard because enforcing them, although this would serve the law's limited if laudable objectives, would hamper the Department's efforts in an equally important and perhaps more compelling area of its concern.

So the making of the Labor Code was a task of revision, consolidation and integration. The then existing laws had to be revised to suit the needs of a fast developing society, using the lessons of its experience and guided by its vision of a progressive future. They had to be consolidated

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and integrated into a single, orderly and coordinated document because, for all the variety of their subject matters, they were really aimed at the achievement of only one goal, that of industrial peace based on social justice that shall endure because it is real.

It was a difficult task because the Labor Code, any law for that matter, must be acceptable to the body politic; under our system every law is supposed to reflect ideas that the society approves of, and there are no written, clear-cut guidelines for determining the people's will. But there were consultations all around and these made the work less formidable than it first appeared to be. Everybody who is anybody in the different sectors of the community contributed worthwhile ideas; people from Government, labor leaders, management experts, academicians, businessmen, representatives of the Integrated Bar of the Philippines, representatives of civic and professional organizations, people from practically all walks of life.

The result, surprisingly, is not hodge-podge, and, as a law, the Labor Code is by no means very radical. Whatever is new in it had more or less been presaged by a number of presidential decrees and instructions and general orders promulgated prior to the Code's passage, and if there was any terrible impact that its implementation had been expected to cause, it was somehow cushioned by the six-month period that was allowed for transition and, as it developed, for further revision by way of what were hoped to be "perfecting" amendments.

But the transition, as expected, occasioned problems, the first of which was, of course, the problem of how to get the Code fully accepted by those whose lives it was going to affect. As it turned out, however, this was not really much of a problem. This was because from the time the first draft of the Code was prepared, efforts were already made to have the draft provisions exposed to the public. Seminars, symposia and small group discussions were held in many parts of the country, but specially in the Greater Manila area, and at these gatherings the draft provisions were dissected, analyzed and otherwise commented upon so that by the time Labor Day of 1974 came around the Labor Code was already familiar to many people. During the six months between its promulgation and its coming into effect on 1 November 1974, the Code was not only written about extensively in the newspapers and discussed over radio and television; it was also the subject of many seminars sponsored all over the country by labor and management organizations, the U.P. Law Center, the Asian Labor Education Center and the Department of Labor. Rules and regulations, circulars and other official issuances of the Department of Labor concerning the Code have since been published.

Information does not automatically produce acceptance, it is true. But in the case of the Labor Code there has not been very serious op-

position to any of its provisions, precisely because its pre-exposure to the public view had attracted and crystallized constructive criticisms and the drafters, consequently, had the opportunity to re-draft and re-draft again in order to accommodate the better among the ideas that were addressed to them by the interested public.

In the case of the National Labor Relations Commission the most difficult problem that it has been confronted with thus far is that posed by the backlog of cases thrown into its lap almost before it started organizing. Some 1,500 cases appealed to the National Labor Relations Commission established under Presidential Decree No. 21 were left unacted upon when the Labor Code came into effect on 1 November 1974 and were dumped on the present Commission even before it had properly located itself in Phoenix Building. At the same time, some 100 cases appealed to the defunct Court of Industrial Relations *en banc* were similarly transferred to it. So it started with a huge backlog on its hands.

This baggage of old cases has been practically eliminated today, barely four months after the Commission started sitting down seriously to work. It has now begun to consider new cases; cases, that is to say, which the labor arbiters have decided. But the real problem is at the arbitration level in the regional branches. In the Manila region alone, about 2,000 cases accumulated during the period between the first day of last November and the time, more than one month later, when the Manila branch was manned by acting labor arbiters. This predicament is made worse by the fact that many of the conciliators in the regional offices of the Department of Labor are new in the game and have not acquired the expertise that this kind of work requires. As a result, a very large percentage of cases filed in the regional offices are certified to the labor arbiters, conciliation having failed. But the situation is not as bad as it sounds. Even the regional branches are operating smoothly, undermanned as they are, and it is hoped that in due time their backlogs will also be liquidated.

Let us now consider some specific problem areas related to the transition from the old system to the new. These are problems that involve legal concepts and legal procedures that the Commission has to grapple with from day to day. These problems will be discussed with particular reference to the dispute settlement system established under the Code.

Reference should first be made to the "Transitory and Final Provisions" of the Labor Code. Two articles of this chapter, Articles 288 and 289, are very important for the purpose of our present discussion. Article 288 provides for, among other things, the abolition of the Court of Industrial Relations and the National Labor Relations Commission established under Presidential Decree No. 21. Article 289 reads in part as follows:

"Art. 269. *Disposition of pending cases.* — All cases pending before the Court of Industrial Relations and the National Labor Relations Commission established under Presidential Decree No. 21 on the date of effectivity of this Code shall be transferred to and processed by the corresponding labor relations division or the National Labor Relations Commission created under this Code having cognizance of the same in accordance with the procedure laid down herein and its implementing rules and regulations. Cases on labor relations on appeal with the Secretary of Labor or the Office of the President of the Philippines as of the date of effectivity of this Code shall remain under their respective jurisdictions and shall be decided in accordance with the law, rules and regulations in force at the time of appeal. x x x"

As early as 14 October 1974, the Secretary of Labor, in order "to ensure orderly transition from the National Labor Relations Commission under Presidential Decree No. 21 to the National Labor Relations Commission under the Labor Code," issued an order setting down the rules to be observed in effecting the transition. The rules are as follows:

"1. All cases filed with the NLRC and its regional units on October 16, 1974 and thereafter shall be deemed filed with the labor relations system established under the Labor Code and processed according to the rules and regulations of the system;

"2. All cases pending before the NLRC and its regional units before October 16, 1974 shall be processed and terminated not later than 31 October 1974;

"3. Cases filed with the NLRC and its regional offices before October 16, 1974, but are not disposed or terminated as of 31 October 1974 shall be dealt with as follows:

"a) Cases pending, preliminary fact-finding and mediation fact-finding shall be referred immediately to the Labor Relations Division of the Regional Office concerned for conciliation or arbitration, as the case may be, under the Code;

"b) Cases pending with compulsory arbitrators shall be referred immediately to the appropriate labor arbiters under the Code;

"c) Cases pending with the NLRC on appeal shall be referred immediately to the NLRC under the Code upon its establishment;

"d) Cases pending appeal with the Office of the President and the Secretary of Labor shall be decided in accordance with Presidential Decree No. 21 until all of them are disposed of;

"e) Appeals from cases decided by arbitrators on or before 31 October 1973 shall be filed with the NLRC under the Code where the reglementary period for filing the same starts on or before 31 October 1974 and extends beyond that date;

"f) Appeals from cases decided by the NLRC on or before 31 October 1974 shall be filed with the Office of the Secretary of Labor where the reglementary period for filing the same

> starts on or before 31 October 1974 and extends beyond that date."

This was how the Secretary of Labor intended to implement the provisions of Article 289, cited above, on the disposition of pending cases. One would think that the issuance of this order, defining as it did in detail the action to be taken on cases filed, pending or on appeal between the dates 16 and 31 October 1974, prevented problems of transition from cropping up, and it really did to some extent. But to some extent it also brought about problems that were not envisioned at the time the order was issued.

There were not many problems attendant to cases filed with the *ad hoc* National Labor Relations Commission or its regional units between 16 and 31 October 1974. All that the National Labor Relations Commission had to do was suspend action on these cases until 1 November 1974 and then, starting the latter date, refer the same to the appropriate labor relations division of the regional office where the employer's establishment is located, or, more specifically, the situs of the employment.[1]

Of course, cases involving disputes that, under the Code and the Rules, are to be settled at the first instance through the grievance machinery and, failing that, through voluntary arbitration,[2] such as cases involving implementation or interpretation of a collective agreement, or cases of dismissals, lay-offs or shut-downs where a collective agreement exists, were remanded to the parties for voluntary settlement.

But there were real problems concerning cases that were already under compulsory arbitration as of 16 October 1974 but were not disposed of as of the last day of that month. Under the order of the Secretary of Labor quoted above, these cases were supposed to be referred immediately by the compulsory arbitrators concerned to the appropriate labor arbiters appointed in accordance with the Labor Code.

But for about one month after the Code became effective, no labor arbiters were appointed to man the regional branches of the present National Labor Relations Commission. There were, therefore, no "appropriate labor arbiters" to whom the compulsory arbitrators of the *ad hoc* National Labor Relations Commission could "immediately refer" such pending cases as required by the Secretary's order.

There were certain cases the parties to which, desiring to have the same disposed of with dispatch, preferred not to wait for the designation of labor arbiters and promptly converted the compulsory arbitrators handling their cases, by mutual choice, into voluntary arbitrators, who.

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[1] RULES AND REGULATIONS IMPLEMENTING THE LABOR CODE, Rule XII, sec. 1; NATIONAL LABOR RELATIONS COMMISSION RULES, Rule VI, sec. 1.

[2] LABOR CODE, arts. 261 and 262.

therefore, did not have any problem as to whether to continue hearing and deciding the case after 31 October 1974. That was, indeed, a wise move insofar as avoiding transitional problems was concerned, but perhaps some of these parties did not realize its implications with respect to another problem area, that of appeals. Generally, under the Code decisions of voluntary arbitrators are, to use its exact phraseology, "final, unappealable and executory."[8] So that, even if the decision of the voluntary arbitrator is patently erroneous, if the case does not fall under the exception to inappealability provided by the Code, the aggrieved party cannot appeal from it.

On the other hand, there were compulsory arbitrators designated as such under the old system who, notwithstanding the Secretary's order of 14 October 1974, continued to hear and decide cases after 31 October 1974 but pending with them as of that date. The question now is: are such decisions valid? To put it another way, were these compulsory arbitrators clothed with the authority to continue acting, after the last day of October, on cases pending with them as of that date?

The National Labor Relations Commission itself is divided on this issue. There are those who believe that because the National Labor Relations Commission created under Presidential Decree No. 21 ceased to exist on 31 October 1974, the authority of the compulsory arbitrators who were designated as such by it necessarily also ceased to exist. This reasoning seems to be supported by the Secretary's order. They argue, therefore, that the compulsory arbitrators who continued to act in that capacity after the Code had come into force not only acted without authority but also violated a clear order of the Secretary of Labor.

Others are of the opinion that, following the hold-over doctrine, the compulsory arbitrators could continue to act as such in areas where, and for as long as, no labor arbiters had been designated.

There is a third school of thought that has struck what one might call a happy compromise between these two extreme positions with this proposition: the key word in the Secretary's order is "pending" — cases pending with compulsory arbitrators shall be referred immediately to the appropriate labor arbiters under the Code. Where the arbitrator had already completed the hearings in a case on 31 October 1974, such case was no longer pending with him on that date and he could proceed to decide the case within a reasonable time thereafter, reasonable time meaning in the meantime that no labor arbiter had been designated in the region concerned.

There are cogent reasons to support this view. In the first place, there was no appropriate labor arbiter to whom the case could be im-

[8] LABOR CODE, art. 262.

mediately referred and, therefore, in this sense, the order of the Secretary of Labor was impossible to comply with. In the second place the, compulsory arbitrator who conducted the hearings, who heard first-hand the testimonies of the parties and their witnesses and observed closely their demeanor on the witness stand and therefore could best evaluate the totality of the evidence presented, was in the best position to decide the case. In the third place, if the compulsory arbitrator were to wait for the appropriate labor arbiter to be designated, a vacuum would in the meantime be created, and the law abhors a vacuum. Lastly, to wait would mean that the cause of speedy labor justice, which is one of the primary objectives of the establishment of the National Labor Relations Commission, both old and new, would be ill served, and this should likewise be avoided.

This, anyway, is how the First Division of the National Labor Relations Commission decided a certain case where this particular issue was posed. It is, of course, not the final word on the subject but it is a fair solution to this particular problem.

The order of the Secretary of Labor also provides, as stated earlier, that appeals from cases decided by arbitrators on or before 31 October 1974 shall be filed with the present Commission where the reglementary period for filing the same starts on or before 31 October 1974 and extends beyond that date. There is quite a problem here because while the Code provides that appeals to the present National Labor Relations Commission should be filed within ten days from receipt of the award, order or decision of labor arbiters or compulsory arbitrators, under the amended Rules of the old National Labor Relations Commission the period provided was only five working days. Which of these two periods should be followed?

Neither the Code nor its implementing rules and regulations nor the rules of the National Labor Relations Commission provide a clear-cut answer, so we have to repair to some familiar rules established by other laws or by jurisprudence on the general subject of procedure.

The period prescribed by law for filing appeals is a procedural rule because it pertains to a matter of process or remedy and does not interpret, qualify or extinguish the right of action. On the other hand, procedural laws are generally retroactive in effect because it is said that no person has a vested right in the rules of procedure.[4]

Following these principles, it is opined that: where the period for filing appeals (that is, five working days) started to run before the ef-

[4] Aguillon v. Director of Lands, 17 Phil. 506 (1910); Vda. de Syta v. Peña, C.A.-G.R. No. L-277-R, March 28, 1947, 43 O.G. 3170 (Aug., 1947); People v. Sumilang. G.R. No. L-49187, December 18, 1946, 44 O.G. 881 (March, 1948), 77 Phil. (1946).

fectivity of the Code but extended to a time when the Code was already in force, the party aggrieved by the arbitrator's decision could avail himself of the more liberal rule prescribed by the Code and appeal within ten days from the date of receipt of the decision. However, if the five-working-day period for filing appeals did not extend beyond 31 October 1974, then the reglementary period for filing appeals under the Code could not possibly be availed of.

Another problem in this area concerns the requirement that the appeal from the Arbitrator's decision be under oath. The Rules of the old National Labor Relations Commission[5] had this oath requirement, which is also found in the Rules of the present Commission. The Code itself, however, contains no such requirement.

The Rules of the *ad hoc* National Labor Relations Commission became inoperative after 31 October 1974 while the rules of the present Commission became effective only on 27 February 1975.[6] Does this mean that appeals filed within the period between these two dates did not have to be under oath? That seems to be logical conclusion to make and the policy of the Commission is to that effect. The Commission, at any rate, is not very strict about observance of technicalities.[7] But, starting with appeals from the decisions of the labor arbiters, the docket officers and receiving clerks, in the Commission proper as well as in our regional branches have been directed to give advice to appellants regarding the requirements of the Rules on the form and contents of appeals and other pleadings, for that matter, to preserve the integrity of the National Labor Relations Commission's regulations.

Thus far, what had been discussed are cases pending with the National Labor Relations Commission or its regional units on 31 October 1974. How about Court of Industrial Relations cases? The answer is found in Rule XVIII, entitled "Transitory Provisions," of the National Labor Relations Commission. According to this Rule, cases pending hearing, decision or determination before any of the five branches of the defunct Court of Industrial Relations as of that date, except those over which the Commission has no jurisdiction under the Code, shall be assigned by the Chairman of the Commission to any labor arbiter for hearing, decision or determination in accordance with the procedure prescribed in the National Labor Relations Commission Rules. However, the substantive laws to be applied shall be those existing at the time the cause or causes of action accrued.

On the other hand, cases pending determination or resolution before the defunct Court of Industrial Relations *en banc* as of 31 October 1974

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[5] Rules and Regulations dated 2 April 1973.

[6] After 15 days from announcement of the adoption of the Rules in newspapers of general circulation.

[7] LABOR CODE, art. 220.

shall be decided or resolved by any Division of the Commission to which the same may be assigned by the Commission *en banc* in accordance with the Rules.

It will be noted that the said Rule XVIII of present National Labor Relations Commission expressly removes from its application cases over which the Commission has no jurisdiction under the Code. This refers to cases which, under the Code, are subject to the exclusive cognizance of the Bureau of Labor Relations and the regional offices of the Department of Labor. The defunct Court of Industrial Relations was vested with a practically all-embracing jurisdiction in the sense that it could take cognizance of almost all types of labor relations disputes. The National Labor Relations Commission, on the other hand, has no jurisdiction over what are described as purely labor relations cases like those involving inter-union disputes. Cases of the latter category that were pending in the Court of Industrial Relations cannot be handled by the National Labor Relations Commission or its regional branches but should be referred for proper disposition to the regional offices of the Department of Labor or to the Bureau of Labor Relations, depending on whether they are pending hearing and decision at the first instance or pending appeal.

The next problems are related to some of the provisions of the chapter of the Code dealing with prescription of offenses and claims.[8]

Article 280 provides as follows:

> "Art. 280. *Offenses.* — Offenses penalized under this Code and the rules and regulations issued pursuant thereto shall prescribe in three (3) years.
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> "All unfair labor practices arising from Book V shall be filed with the appropriate agency within one year from accrual of such unfair labor practice; otherwise they shall be forever barred."

As to the first paragraph of this Article, there is no question that if the period provided therein for the prescription of offenses penalized by the Code is shorter than the period provided for the same offenses by the labor laws applicable before the effectivity of the Code, the period provided by the Code, which is three years, should apply. Conversely, if any prior law provided a prescription period shorter than three years for an offense similarly penalized under the Code, it is this shorter period that should apply to offenses committed when such prior law was in force.

The reason for this is simple. According to the Revised Penal Code, penal laws are given retroactive effect when they are favorable to the accused who is not a habitual criminal.[9] This principle should be con-

[8] LABOR CODE, Book VII, Chapter II.
[9] REV. PENAL CODE, art. 22

sidered in relation to another provision of the Revised Penal Code[10] which says that the said Code shall be supplementary to special laws which punish certain offenses.

The provisions of law on prescription of offenses punishable under it are part of the penal provisions themselves, or a necessary adjunct thereof, so that the principle of retroactivity applicable to the provisions defining and punishing the offense should likewise apply to the period of prescription. That seems to be the thrust of this principle which is to favor the accused with the application of the more lenient law relating to the offense he has committed.

How about unfair labor practice acts? Does the right to bring an action for unfair labor practice committed before the effectivity of the Code prescribe after one year from the time it was committed? That is provided by the second paragraph of Article 280 but it does not specify as to what, in point of time of commission, unfair labor practice acts are referred to.

Republic Act No. 875 did not have any provision regarding the period within which an action for unfair labor practice may be brought. In a certain case involving unfair labor practice[11] the Supreme Court said that in the absence of such specific provision in the Industrial Peace Act, the statute of limitations prescribed by the Civil Code of the Philippines shall apply. Article 1146 of the Civil Code directs that an action upon an injury to the rights of the plaintiff must be initiated within four years. This is the proper prescriptive period for filing actions for unfair labor practices because such actions are essentially based upon injury to the rights of the plaintiff under Section 3 of the Industrial Peace Act. Otherwise it would fall in the category of all other actions whose periods of prescription are not fixed in the Civil Code or in other laws, which must be brought within five years from the time the right of action accrues.[12] It is more to the point to consider unfair labor practices as acts that inflict injury upon rights of persons, so that the period for filing actions therefor, under the Civil Code and the Industrial Peace Act, should be four years.

In any case, there are many cases of unfair labor practice committed before 1 November 1974, the period for filing which, under either Article 1146 or Article 1149 of the Civil Code, extended to that date and beyond. The question now is, under Article 280 of the Labor Code, how long after 1 November 1974 may such cases be filed?

Following the same principles already discussed in relation to appeals and to prescription of offenses, the answer is that the action should be

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[10] REV. PENAL CODE, art. 10.

[11] Mercury Drug Co., Inc. v. Court of Industrial Relations, G.R. No. L-23357, April 30, 1974, 70 O.G. 7150 (Aug. 26, 1974), 56 SCRA 695 (1974).

[12] CIVIL CODE, art. 1149.

filed within four years from accrual but not later than one year from 1 November 1974, or they will be barred forever. This means, as in the case of the period for filing appeals affected by the transition, that Article 280 is being given retroactive effect, but only partly, that is, in the sense that Article 280 provides the cut-off period of one year from the date of effectivity of the Code, which is not necessarily one year from the time the cause of action accrued.

There are several reasons for this answer. First, as noted earlier, provisions of law on prescription of actions are procedural in character and, therefore, are generally given retroactive effect. Second, the change in the concept of unfair labor practices from criminal to merely administrative offenses suggests that the tendency of the law is to treat unfair labor practice offenders with greater leniency than before. Third, it is not in the interest of industrial peace and, more importantly, not in the interest of speedy disposition of labor cases, to delay the filing and, therefore, also the settlement of any action upon rights established by the labor laws. Fourth, it seems to be the pervading sense of the Labor Code, even as it establishes a new system of labor relations, to allow the parties likewise to start anew in matters affecting the conduct of such relations.

That such is the intention is also clear from the provisions of Article 281 which reads in part as follows:

> "Art. 281. *Money claims*. — All money claims and benefits arising from employer-employee relations accruing during the effectivity of this Code shall be filed within three (3) years from the time the cause of action accrued; otherwise they shall be forever barred.
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> "All money claims accruing prior to the effectivity of this Code shall be filed with the appropriate entities established under this Code within one year from the date of its effectivity, and shall be processed or determined in accordance with the implementing rules and regulations of the Code; otherwise they shall be forever barred."

These provisions are very clear. The first paragraph refers to money claims the cause of action of which accrued during the effectivity of the Code, that is, from 1 November 1974 onward, in which case the claim must be filed within three years from accrual of the cause of action. The second paragraph speaks of claims that accrued prior to the effectivity of the Code, in which case, no matter what the prescriptive period of the action was under the laws applicable before the Code became effective, the claim must be filed within one year from 1 November 1974.

This does not mean, of course, that causes of action that had already prescribed before 1 November 1974 in accordance with the laws existing at the time could still be filed within one year thereafter. The one year period given to claimants is not a grace period. The intention really is to shorten, not to extend, the period for filing claims accruing before the

Code took effect. Let us now consider, for the last item on the subject of problems of transition, the repealing clause of the Code. Article 292 provides as follows:

> "Art. 292. *Repealing clause.* — All labor laws not adopted as part of this Code directly or by reference are hereby repealed. All provisions of existing laws, orders, decrees, rules and regulations inconsistent herewith are likewise repealed."

Among the laws referred to in the Labor Code which it seems to have directly or indirectly adopted as part of its substantive provisions are found in Articles 10, 97, 165, 207 and 266 thereof. All other laws, or such parts thereof as are inconsistent with the provisions of the Code, are deemed repealed.

Article 10 refers to the Code of Agrarian Reform and existing rules and regulations affecting transferability of land acquired pursuant to Presidential Decree No. 27. This decree itself is adopted as an integral part of the Code as Chapter II of its Preliminary Title.

Article 97 adopts by reference the minimum wage rates prescribed by the Minimum Wage Law and the wage orders issued under it.

Article 165 makes reference to Republic Act No. 1161, which established the Social Security System, and Commonwealth Act No. 186 (1936), which established the Government Service Insurance System.

Article 207 refers to Republic Act No. 6111, which established the Medicare Commission, and states that the Philippine Medical Care Plan shall be implemented as provided therein.

Article 266 provides that the terms and conditions of employment of all government employees shall be governed by the Civil Service Law, rules and regulations.

On the other hand, Rule 111, Book VII of the Rules and Regulations Implementing the Labor Code enumerates the laws that are deemed repealed pursuant to Article 292 of the Code. The last paragraph of this Rule says that "all other laws involving employer-employee relations, including the Sugar Act of 1952 (Republic Act No. 809), are deemed not repealed."

Does this mean that Presidential Decree No. 21, which is not in the list of laws considered repealed by the Code in accordance with Rule 111 of Book VII of the Rules and Regulations, still subsists?

The labor dispute settlement system established by Presidential Decree No. 21, it will be noted, has entirely been superseded by the new system established under the Labor Code. The National Labor Relations Commission which it created has been abolished by express provision of Article 288 of the Code. Its provisions relating to grievance procedure, voluntary

arbitration and clearance for terminating the services of regular employees are now integral parts of the Code.

It appears, therefore, that the only provision of Presidential Decree No. 21 that has not been incorporated in the Labor Code is Section 10 thereof which provides that "The President of the Philippines, on recommendation of the Commission and the Secretary of Labor, may order the arrest and detention of any person held in contempt by the Commission for non-compliance and defiance of any subpoena, order or decision duly issued by the Commission in accordance with this Decree and its implementing rules and regulations and for any violation of the provisions of this Decree."

The Commission referred to in Section 10 is, of course, the National Labor Relations Commission established under Presidential Decree No. 21. This Section speaks of non-compliance with, or defiance of, any subpoena, order or decision issued by that Commission and violation of the provisions of Presidential Decree No. 21 itself. Since that Commission no longer exists, then, obviously the authority vested in the President by this Section can no longer be invoked today. Nor can there be any violation of Presidential Decree No. 21 because, as earlier mentioned, Book V of the Labor Code has supplanted this Decree insofar as its substantive provisions are concerned.

Moreover, Section 10 establishes a system of implementing or enforcing the said Commission's orders and decisions. It will be noted that there is no other provision of the Decree that defines the manner in which its orders and decisions could be executed. On the other hand, the present National Labor Relations Commission is provided with ample powers to have its orders, decisions and awards executed. It may, *motu proprio* or upon motion of any interested party, issue a writ of execution requiring the sheriff or proper officer to execute a final decision, order or award of the Commission itself, the Labor Arbiters or compulsory or voluntary arbitrators.[13] The Commission may also take such measures under existing laws, decrees and general orders as may be necessary to ensure compliance with such orders, decisions or awards, including the imposition of administrative fines ranging from ₱500 to ₱10,000.[14] It may also hold any person in direct or indirect contempt and impose appropriate penalties therefore.[15]

In fine, the Labor Code has vested the present Commission with adequate powers to execute its orders, decisions and awards. It can be said to be self-sufficient in this regard.

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[13] LABOR CODE, art. 223.
[14] LABOR CODE, art. 224.
[15] LABOR CODE, art. 217.

In view of the above reason, it is believed that the whole of Presidential Decree No. 21, including Section 10, has also been repealed by the Labor Code notwithstanding the provisions of Rule III, Book VII of its Implementing Rules and Regulations.

This is not to say, however, that the President of the Philippines has necessarily lost the authority to order the arrest and detention of persons who refuse to abide by the Commission's orders and decisions. He may have that power under other laws and decrees, but definitely not under Section 10 or Presidential Decree No. 21.

These are some of the major problems related to the transition from the old to the new system of labor relations in this country. While a number may be vexing to those adversely affected, there is consolation in the thought the problems of transition are themselves transitory in character. They will resolve themselves or be resolved, in due time.