

WOMEN AND LABOR: IS THE ECONOMIC EMANCIPATION OF THE FILIPINO WORKING WOMAN AT HAND?

FLERIDA RUTH P. ROMERO*

The Profile of the Working Woman in the Philippines

Women compose more than a third of the world's economically active population and 46 out of every 100 women of working age (15 to 64 years) are in the labor force.¹ The same ratio obtains in the Philippines. The statistics of 1974 shows that of a labor force (10 years old and over) of 14,244,000, 68% are males and 32% are females. The highest labor force participation of women is in the 25-45 age bracket (40.3%) followed by the 10-24 year olds (37.8%), then the 46-60 year olds (19.0%) and lastly, the 65 years and over (2.7%).

Over the years, the majority of the women in our labor force have been engaged in agriculture and related work, the 1974 figures showing 36.6% of them in said occupational group. Next to agriculture, our women have gone into commerce, 17.9% being in the sales force, followed by an estimated 16.2% in services (domestic and personal), sports and related occupations. Only 9.9% are professional and technical workers and a slim 0.1% are found in administrative, executive and management levels.²

Recently, an increasing number of rural woman have forsaken the fields, lured by the more attractive wages offered by industrial firms in urban areas, particularly those calling for finger dexterity and attention to detail as in cigarette making, packaging, garment manufacture and the like.

Protective Legislation for the Working Woman

Our 1935 Constitution singled out working women as objects of special protection due to their different physiological makeup incident to their child-bearing functions and because traditionally, they have always been an exploited group.

Section 6 of Article XIV provided: "The State shall afford protection to labor, *especially working women and minors*, and shall regulate

*Professor of Law, University of the Philippines, and Head, Division of Continuing Legal Education, U.P. Law Center.

¹*Equality of Opportunity and Treatment for Women Workers*, Report VIII, ILO Conference, 60th Session, 1975.

²Bureau of the Census and Statistics.

the relations between landowner and tenant, and between labor and capital in industry and agriculture. The State may provide for compulsory arbitration." (Underscoring supplied)

Incidentally, such lumping of women in the same category as minors betrays the patronizing attitude of our male legislators and national planners towards the opposite sex. Under the Spanish Civil Code, women enjoyed no greater rights in family and property law than minors, lunatics and idiots. Then came the 1935 Constitution which again placed working women in the same category as minors. Even the administrative machinery created to enforce the protective legislation was called Bureau of Women and Minors. The day woman shakes off this image that drags her down to the level of underaged children in need of special attention and care, that day will she have come into her own.

In any event, early legislation regulating the employment of women took the form of protective legislation as mandated by the Constitution. It was rather unfortunate that Act No. 3071 passed in 1923 granting "thirty days vacation with pay before and another thirty days after confinement" in the nature of present-day maternity leaves to working women was declared unconstitutional by the Supreme Court as being in violation of the freedom of contract.³ It was only about thirty years later, in 1952, that the maternity provision finally succeeded of legislative enactment along with several other benefits embodied in Republic Act No. 679, otherwise known as the Woman and Child Labor Law.

A cursory rundown of such rights granted to them follows:

1. Maternity leave with pay for six weeks prior to delivery and eight weeks after normal delivery or miscarriage at the rate of not less than 60% of the average weekly.⁴
2. Noon meal periods at not less than sixty minutes.⁵
3. Nursery facilities for children up to two years old under the charge of a nurse or midwife whenever there are fifteen married women in the establishment.⁶
4. Grant of at least half an hour twice a day given to nursing mothers to nurse their babies.⁷
5. Prohibition on employers from requiring their women employees

³People v. Pomar, 46 Phil. 440, 454 (1924).

⁴Rep. Act No. 679 (1952), sec. 8(a).

⁵Rep. Act No. 679 (1952), sec. 9(b).

⁶Rep. Act No. 679 (1952), sec. 8(c).

⁷Rep. Act No. 679 (1952), sec. 8(b).

to work continuously on their feet or in work which involves the lifting of heavy objects.⁸

6. Requirement of such facilities as seats, separate lavatories and dressing room for women employees.⁹

7. Prohibition of nightwork for women from 10:00 P.M. to 6:00 A.M. in industrial establishments and from 12:00 midnight to 7:00 A.M. in commercial establishments.¹⁰

8. Grant of rest period of not less than nine consecutive hours to women employed in agriculture.¹¹

Effect of Protective Legislation on Employment of Women

Enacted to protect the health of working women in line with International Labor Organization Conventions ratified by the Philippines, the Woman and Child Labor Law placed employers in a quandary inasmuch as compliance with the requirements specified by law entailed higher operating costs and the adjustment of time schedules and work assignments. To obviate the necessity of having to pay for maternity leaves, employers were constrained to adopt hiring policies preferential to men. This way, they could likewise avoid the setting up of the required facilities.

Those companies which religiously put up nurseries all too soon found out that they were more decorative than functional. Married women were never wanting in surrogate mothers to babysit for them in the person of their own or their husband's kin. Besides, who cared to expose her infant to the risks of land and air pollution in going to and from the work place?

It was becoming apparent to the women that what was initially designed for their protection was actually working against their interests. Clearly, amendments were in order. But the proponents of the desired change encountered stiff resistance from those who, having fought hard for these benefits, could not reconcile themselves to surrendering them. Eventually, the amendments were introduced along with radical, sweeping innovations which followed closely on the heels of the declaration of Martial Law in the form of presidential issuances culminating in Presidential Decree No. 442, now commonly called the Labor Code.

⁸Rep. Act No. 679 (1952), sec. 7.

⁹Rep. Act No. 679 (1952), sec. 9(a).

¹⁰Rep. Act No. 679 (1952), sec. 9(a).

¹¹Rep. Act No. 679 (1952), sec. 7(d).

Shift in National Policy on Employment of Women

Before proceeding to catalog some of the important changes, it should be mentioned at this juncture that the 1973 Constitution adopted a different posture as regards working women. No longer are women considered special targets of legislative protection. "Unisex" in outlook, it seeks to ensure equality in treatment for all workers. Full employment and equal work opportunities are guaranteed to all "regardless of sex..."

Section 9 of Article II provides: "The State shall afford protection to labor, promote full employment and equality in employment, ensure equal work opportunities regardless of sex, race, or creed and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

The above approach embodied in our basic Charter reflects the International Labor Organization's stance that if protection is to be extended at all to workers, let it be to all, men and women alike. Also, it reflects the shift of emphasis in the international body's policies and programs, from the protective to the so-called promotional aspect. Where the main thrust of its earlier efforts was the laying down of labor standards to prevent the exploitation of certain sectors of the labor force, particularly the women, now it sought equal treatment for them and the elimination of discriminatory practices.

The deletion in the Constitution of the special protection clause to working women paved the way for the revision of the labor law in such a way as to diminish the burdens imposed on the employer as a consequence of the employment of women. Amendments introduced in Presidential Decree No. 148 subsequently embodied in Presidential Decree No. 442, the Labor Code, also attempted to give substance to the constitutional guarantees of equality in treatment of both sexes at their workplace.

Among the basic amendments are the following:

1. The maternity leave with pay period was reduced from six weeks before and eight weeks after delivery to two weeks before and four weeks after normal delivery or abortion with full pay and not just 60% of the regular or average weekly wage.¹²

2. Such maternity leave privileges are limited to only the first four deliveries to harmonize the Code with the comprehensive family planning program of the government.¹³

¹²Pres. Decree No. 442 (1974), as amended, art. 131(a).

¹³Pres. Decree No. 442 (1974), as amended, art. 131(c).

3. The setting up of such facilities as seats, separate toilet rooms and lavatories, nurseries and family planning services is no longer imposed indiscriminately as requirements but is left to the discretion of the Secretary of Labor.¹⁴

4. Night work for women is prohibited during the following periods: 1:00 A.M. to 6:00 A.M. the following day in industrial establishments; from midnight to 6:00 A.M. the following day in commercial firms. In agricultural undertakings, no woman shall be required to work unless she is given a rest period of not less than nine consecutive hours.¹⁵

5. For purposes of extending benefits granted by labor and social legislation, women who work in night clubs, cocktail lounges, bars, massage clinics or any such similar places under the effective control or supervision of the employer are considered his employees regardless of whether they work with or without compensation.¹⁶

6. To put an end to discriminatory practices against women employees, employers are categorically enjoined from discriminating against any woman with respect to terms and conditions of employment on account of her sex. Certain acts are particularized to give added emphasis such as the discrimination against, or termination of, the employment of a woman merely by reason of her marriage or because of pregnancy.¹⁷

7. In express terms, the law guarantees equal remuneration to both men and women for work of equal value.¹⁸

The above provisions enacted to give assurance of equality in employment opportunities and working terms and conditions take on added significance in the light of the Constitutional admonition for every citizen "to engage in gainful work to assure himself and his family a life worthy of human dignity."¹⁹

It has to be admitted that as the labor law now stands, there is a reduction of protective measures hitherto granted to women workers in an effort to divest employers of excuses for denying equal employment opportunities to women. Such a compromise had to be effected if the grim prospect of absolute unemployment was not to be the lot of the female worker.

¹⁴Pres. Decree No. 422 (1974), as amended, art. 130.

¹⁵Rep. Act No. 442 (1974), as amended, art. 128.

¹⁶Rep. Act No. 442 (1974), as amended, art. 136.

¹⁷Pres. Decree No. 442 (1974), as amended, arts. 134 & 135.

¹⁸Pres. Decree No. 442 (1974), as amended, art. 133.

¹⁹CONST., art. V, sec. 3.

The International Labor Organization itself recognized this dilemma when it offered this note of caution: "Very often, well-intentioned efforts to protect women or remove protection go astray. There are dangers in appearing to attack in too general terms the concept of protective legislation applicable to women only. There will always remain a limited sphere in which women will need protection: that of maternity. Often this entails a heavy burden for employers and for the State and there are still many who would wish, for non-social reasons, to reduce the protection women really need in this area and in fields of occupational safety and health relating to the biological function of reproduction. But the test for protection and for removal thereof should be periodic reviews of the situation to ensure that the protective framework is up to date in the light of scientific and technological advances."²⁰

It may not be amiss to mention here that proposals have been made by some quarters to include maternity provisions in the package of social welfare benefits to ease the burden on the employer.

Roadblocks to Achieving Economic Equality for Women Workers

The crucial question that presents itself at this stage is: Do these provisions now give positive assurance of economic equality to women workers? It would be burying our heads ostrich-like in the sand if we did not concede that obstacles of varying dimensions and proportions impede the realization of this objective. To mention a few:

1. Traditional and cultural constraints — The stereotyped image of man which is actually reproduced in the Civil Code, is that of a dominant head of the household and provider and woman as the homemaker.²¹ In this role, he is expected to figuratively "bring home the bacon" in pretty much the same way that in primitive times, he must have been expected to literally bring home the "bacon" slung over his shoulders. His hunting ground then, as now, was the outdoors while the wife, was, and still is, relegated to the home.

Not unexpectedly, in schools, these roles are reflected in the curricula, such that the boys are given technological courses and the girls, home arts, and let there be no commingling lest each be de-sexed. In college, the ladies enroll in education, nursing, social work, and in technical schools in dressmaking and cosmetology while the boys go into law, medicine, engineering, science, and the various trades.

This clear-cut compartmentalizing is carried over into the employment field resulting in the labelling of occupations as "men's jobs" and "wo-

²⁰*Supra*, note 1 at 47.

²¹CIVIL CODE, arts. 111 & 115.

men's jobs." Hence, society automatically closes the door to certain jobs to women. Women themselves without rationalizing, limit their choices to those that tradition and custom dictate as open to them. As if this were not enough, some companies, in their advertisements, specify that only males need apply even for positions for which women can qualify, thus shutting more doors to the hapless females.

As between two job applicants, all things being equal, why must the prospective employer prefer the male? Is it because men are considered innately superior to women? Or, as some put it, that the women are good only for the bedroom and the kitchen, certainly an outmoded, anachronistic attitude which should have been dispelled with the advent of the Industrial Revolution, the World War II experience, and the springing up of various feminist movements!

In more recent times, it is to be observed that women have gradually "invaded" what used to be regarded as exclusively male preserves such as scientific and technological fields. However, it is still the men who are appointed to managerial, executive and supervisory positions calling for decision-making and the exercise of supervision. Note that in the 1974 statistics, out of 4,412,000 gainfully employed women, only 33,000 or 0.1% are in the top levels.²² Even in the so-called "women's jobs" like in education, it is still the men who occupy the higher administrative rungs. The women can be found in the subordinate positions which call merely for assisting the male superiors or which need shorter or less training.

Then, too, in the matter of pay, it is not entirely fortuitous that the so-called "women's jobs" are in the lower income bracket. This may be due in part to the prevailing notion that the husband is the principal wage earner and the wife, merely a supplementary breadwinner. She is supposed to hold her job only to augment the family income. When a possible retrenchment occurs, she is among the first to go, all things being equal, like job performance, seniority, and similar factors.

As regards chances for advancement, the women, more often than not, are excluded from career planning which calls for systematic on-the-job training and rotation. Some males hold the view that the single female employee is merely marking time until she bags her boss or one of the boys, while the married one is only whiling away her time until the next baby comes along. When the breaks come, understandably, these go to the men who have been prepared for it.

²²Bureau of the Census and Statistics

This discrimination is most discernible at the executive level. It is in the lower-paying jobs that equality between male and female employees is approximated. Again, the ingrained belief is simply that women are not as competent, actually or potentially, as men. Research, however, has shown that women have essentially the same work potential as men; that differences in range of abilities are greater among individuals of the same sex than between the sexes; and that few occupations now require a degree of physical strength which women are unlikely to possess.²³

2. Economic considerations — As adverted to above, women have always been regarded as marginal employees. How tenuous their hold is on their jobs is easily proved in times of economic recession or inflation. A country's economic climate, therefore, is a major determinant of the incidence of unemployment among the ranks of the female labor force.

3. Governmental Attitude — Having dwelt rather lengthily on the first goal of International Women's Year, namely, equality, the import of which is equality between men and women, we proceed to a factor which has relevance to the second goal — development.

It is a fact that most countries accord women's concerns, if they consider them at all, a very low priority in their national program of action. A carry-over of the deep-seated bias against women, this partly stems from the fact that most national planners and policy makers are men. Pressure groups of women to influence the male technocrats in the upper government echelons are few and are, more often than not, merely humored and hardly taken seriously. In our country, whatever civic organizations there are which can muster enough force, quantity and quality-wise, are of the elite. Factory women workers, reluctant for varied reasons to join trade unions, are practically non-entities in the labor force.

What the government fails to realize is that in thus neglecting women, it overlooks more than half of the total population which constitutes approximately one-third of the country's labor force — a virtually untapped source of manpower, or womanpower, for national development. At a time when the national economic policy is geared towards the establishment of labor-intensive industries, our economic planners would be well-advised to consider the best means of harnessing this vast potential in human resources which can contribute to the acceleration of the country's socio-economic development.

The problem becomes more pressing when we consider that out of 579,000 unemployed persons as of August, 1974, 376,000 were males and 203,00 were females.²⁴

²³CIRF: *Training for Progress* (Geneva, ILO), Vol. 10, 1971, Nos. 3-4, pp. 1-2.

²⁴Bureau of the Census and Statistics.

Indeed, it is a truism that a nation's stage of development can be gauged by the way it treats its women. With the appointment of no less than the First Lady as Chairman of the newly-created National Commission on the Role of Filipino Women, one can be pardoned for entertaining sanguine hopes that the government will take women's problems seriously, in keeping with their individual worth and dignity.

4. Weakness of Administrative Machinery — A direct offshoot of the next preceding factor is the inadequate enforcement of the labor laws. This holds true with the enforcement of the equal pay for work of equal value provision in the Labor Code. In the higher rungs of the occupational ladder, the principle is blatantly disregarded. A study conducted by the National Manpower and Youth Council revealed the fact that women in the executive level get less than their male counterparts. International Labor Organization reports place the disparity in pay from 50 to 80% in most countries. Women of equal qualifications, competence and seniority are bypassed in favor of the men, or worse, such factors are disregarded and appointments made solely on the basis of sex.

It is to be admitted that a number of our industrial establishments have yet to institute or improve their system of job classification, comparison and evaluation. However, if the law enforcement machinery could discharge its duties more vigilantly, the flagrant violators, nationals and aliens alike, would be discouraged from committing such discriminatory practices.

A high-ranking official of the Department of Labor was surprised to hear a group of seminar participants ventilate this problem. He unhesitatingly declared that no complaints had been filed with his office by women victims. He could have been right at that. But this is not to say that the practice does not exist, for it is rampant. One should understand that, faced with a choice of a job with sub-minimum pay and no job at all, an applicant will unhesitatingly choose the former.

Similarly, if women workers are not even aware of the rights they are entitled to, like maternity benefits, how can they be expected to complain? For instance, available statistics show that out of six million women entitled to maternity leaves with pay, only 300,000 are actually enjoying them. Even among the enlightened women workers, rarely does one go out of her way to claim what is due her under the law. The prospect of losing her job, her natural timidity, the lack of support from a male-dominated union— these make the most militant woman worker turn faint-hearted.

Reference was made earlier to Article 136 of the Labor Code classifying the women who work in nightclubs and similar places as employees of those establishments, whether they receive compensation or not from their employers, as long as they work under the effective control or supervision of the latter, for purposes of their enjoying the benefits extended them by labor and social legislation. No less than Director Lucina C. Alday of the Bureau of Women and Minors has admitted that this requirement is more honored in the breach than in the observance. Certainly, it cannot be said that the government officials concerned are oblivious of the plight of these women!

There was a former Secretary of Labor who, concerned over the lot of the nightclub hostesses, personally went to one such establishment to check whether the operator was violating the Woman and Child Labor Law. What he wanted to know was whether the women work beyond 10:00 P.M., which would patently be a violation of the law. He asked a photographer to take a picture of a clock in the premises which indicated the time as 12:10. Do you think he succeeded in prosecuting the nightclub operator on the basis of what he thought was incriminating evidence? No, because the shrewd counsel for the respondent argued that the clock did not indicate whether it was 12:10 A.M. or P.M.!

Conclusion

If the status of women in the economic field, particularly in the area of employment, is to be elevated, the government must take the lead, followed by the non-governmental agencies. The program of action to be adopted by the government should be comprehensive, unified and integrated, comparable in breadth and intensity to its family planning program.

As we have noted, legislative enactments alone will not suffice to assure women the economic rights that are due them. There still remains a yawning gap between the *de jure* and the *de facto*. If equality is to be approximated, a multi-faceted approach is certainly called for since inequality in employment is merely a reflection of the unequal treatment given to women in a broad spectrum of human activities. To repeat, therefore, the national program of action must be multi-dimensional, taking into account political, social, economic, educational and cultural factors.

As with any blueprint, however, the starting point has to be an accurate and reliable assessment of the present position of working women, the better to determine the direction and extent of future efforts. The mounting activities being held all over the country in observance of International Women's Year point to a glaring lack of empirical and statis-

tical data on the status of women. Mere assertions of a handful of concerned women representing, more often than not, only one segment of the female labor force are hardly convincing bases for a systematic, vigorous government plan of action.

Research, more than anything else, will open the eyes of the Filipino people to the unenviable plight of its working women. Studies and surveys should come up with hard facts, data and the right answers to such queries as: Are the women discriminated against in employment opportunities, in the enjoyment of equal treatment and benefits in their workplaces as well as job tenure? If so, what is the extent of such discrimination? How widespread are the practices?

To what extent are the media contributing to the perpetuation of the various myths regarding the innate inferiority of women in general? How valid is the assertion that ours is a matriarchate and, therefore, Filipino women have no cause to complain?

Are the Filipino women themselves aware that, in the manner of second-class citizens, they are a deprived group.— deprived of rights and opportunities comparable with those of the men in the political, economic, educational and legal (at least in family law) fields? Of those who are enlightened, is there a significantly sizeable percentage which desires and seeks upliftment of their status?

Finding the answers to these and similar questions would constitute a seemingly small beginning but, decidedly, a step in the right direction towards the enhancement of the status of the Filipino woman.