

**LABOR MARKET GOVERNANCE IN THE PHILIPPINES:  
A CASE OF COLLABORATIVE OR COMPETITIVE GOVERNANCE?**

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# LABOR MARKET GOVERNANCE IN THE PHILIPPINES: A CASE OF COLLABORATIVE OR COMPETITIVE GOVERNANCE?

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## INTRODUCTION

The labor market is the “whole system where the demand for and the supply of labor interact.”<sup>1</sup> Workers, firms and government are three leading actors in the labor market.<sup>2</sup> They interact in given contexts, formulate work rules and in general share a set of ideas and beliefs (ideology).<sup>3</sup> Government is involved, albeit it has been observed that “governance is a scarce commodity.”<sup>4</sup> According to Peters (2002), “(t)he process of governing represents a continuing set of adaptations of political and administrative activities to changes in the environment, not least of which are changes in the ideas of what constitutes *appropriate* modes of developing and implementing collective goals.”<sup>5</sup> Labor market governance is defined by the International Labor Organization (ILO) “as the institutions, authority structures, means of collaboration, policies, norms, laws, regulations, machinery and processes that influence the demand for and supply of labor in an economy, encompassing labor regulation, industrial relations and labor administration. Collective bargaining and labor dispute prevention and settlement are among the elements.”<sup>6</sup>

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<sup>1</sup> Department of Labor and Employment, Bureau of Labor and Employment Statistics, Philippines. (2011). Glossary of terms commonly used in labor and employment statistics, p. 30.

<sup>2</sup> Borjas, George J. (1996). *Labor Economics, U.S.A.: The McGraw Hill Companies, Inc.*, p. 3. Also cited in Sale, Jonathan P. and Bool, Arlene C., *Recent Developments in Philippine Labor Market Governance: Shifting Methods from Command to Collaboration?* (September 5, 2010). *OIDA International Journal of Sustainable Development*, Vol. 1, No. 6, pp. 79-88, 2010. Available at SSRN: <http://ssrn.com/abstract=1672324>, p. 80.

<sup>3</sup> Dunlop, John T. (1984). *Dispute Resolution: Negotiation and Consensus Building, U.S.A.: Auburn House Publishing Company*, pp. 35-43. Also cited in Sale, Jonathan P. (2011). *The Governance of Decision Making and Labor Dispute Settlement in the Philippines: Shifting Methods from Command to Collaboration or Vice-Versa?* Doctoral Dissertation, UP National College of Public Administration and Governance, 08 March 2011, p. 154.

<sup>4</sup> Peters, B. Guy. (2001). *The Future of Governing, U.S.A.: University Press of Kansas*, p. 1. Also cited in J.P. Sale, *supra* at 4.

<sup>5</sup> Peters, B. Guy. (2002). *Governance: A Garbage Can Perspective*. Institute for Advanced Studies, Vienna. Emphasis supplied. Also cited in J.P. Sale, *supra* at 167.

<sup>6</sup> Sale, Jonathan P. and Bool, Arlene C., *Recent Developments in Philippine Labor Market Governance: Shifting Methods from Command to Collaboration?* (September 5, 2010). *OIDA International Journal of Sustainable Development*, Vol. 1, No. 6, pp. 79-88, 2010. Available at SSRN: <http://ssrn.com/abstract=1672324>, p. 79.

Labor market governance (LMG) indicators in the Philippines may include the extent, size or levels of workers' associations, trade unions, collective bargaining agreement (CBA) coverage, labor management council or committee (LMC) coverage, compliance rates upon labor inspections, establishments or employers (i.e., employment size), labor standards cases handled, among others.<sup>7</sup>

The 1987 Philippine Constitution requires the State to regulate the relations between workers and employers and recognize the right of labor to its just share in the fruits of production and the right of enterprises to reasonable returns on investments, and to expansion and growth.<sup>8</sup> The use of property bears a social function, and all economic agents shall contribute to the common good.<sup>9</sup> Thus, the Constitution also requires the State to promote the principle of shared responsibility between workers and employers while expressing a preference for the use of voluntary modes in settling labor disputes, including conciliation.<sup>10</sup>

Is labor market governance in the Philippines collaborative or competitive?

In this research, the authors unravel apparent shifts in Philippine labor market governance by seeking empirical evidence of collaborative and competitive governance. Legal origins theory is applied. Culture is broached. The relationship among unions, collective bargaining, workers' associations, conflict management and resolution, minimum and average wages, compliance rates on labor inspections, size of enterprises (small and big), labor productivity, among others, across regions and over time is analyzed. Collaborative and competitive governance are probed.

## BACKGROUND AND LITERATURE REVIEW

### *Globalization, Race to the Bottom and Competitive Governance*<sup>11</sup>

Globalization – the unfettered flow of capital, goods, services, and technology across nations (Sale 2002) – has fuelled the desire for flexibility in national rules, regulations and processes. de

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<sup>7</sup> *Id.*, at 83.

<sup>8</sup> CONST., art. XIII, sec. 3.

<sup>9</sup> CONST., art. XII, sec. 6.

<sup>10</sup> CONST., art. XIII, sec. 3.

<sup>11</sup> See the study by J.P. Sale and A.C. Bool titled Philippine labor market governance: shifting methods from command to collaboration unraveled (Some preliminary data, findings and explanations of competitive and collaborative governance) presented at the 2011 Conference of the Working-Class Studies Association (22- 25 June 2011) on 24 June 2011 at the Monarch Room, 3<sup>rd</sup> Floor Conference Center, University of Illinois – Chicago Student Center East, U.S.A, and the study by J.P. Sale titled Labor market governance in the Philippines: wages, unions, CBAs, SEs, and employment (Some preliminary data, findings and explanations of competitive and collaborative governance) presented at the Asian Regional Conference, Philippine Society for Labor and Social Security Law (17-18 November 2011), UP-SOLAIR.

Soto (2000) favors simplification of rules so that those in the informal economy would find it easier to gain access to the formal economy. Friedman (2005) echoes this in relation to the felt need to attract business and capital. Market-based approaches to governing have been adopted in many nations because of challenges and opportunities posed by globalization. Yet, recent developments demonstrate that markets fail. Greenspan (2008) admits as much and points to the underestimation of risk as the culprit behind the global financial and economic crisis, i.e., “irrational exuberance.” There was inordinate amount of risk taking because regulations were wanting. Aside from putting in more capital, governments should regulate even when there is no crisis to avoid excessive risk taking, says Krugman (2009). And Cooney (2000) notes that globalization can lead to marginalization, abuse and impoverishment in the absence of proper forms of governance. That is why it could become a “race to the bottom.” This phrase, attributed to US Supreme Court Justice Louis Brandeis, refers to a situation where nations reduce regulatory measures to attract business – the race is not of diligence but of laxity.<sup>12</sup> Regulatory measures, while intended to protect the vulnerable, can be costly, and the costs of doing business are uneven across nations. The unevenness is deemed a comparative advantage. Others call this regulatory competition<sup>13</sup> or competitive governance.<sup>14</sup>

According to Smith-Bozek: “Regulatory competition can occur horizontally – among co-equal governments at various levels – or vertically – for instance, between state and national governments. Governments’ motivation for horizontal, and in some cases vertical, competition is to attract new businesses to bolster tax revenue and help spur job growth and economic development. With horizontal competition, companies may move to the jurisdiction that provides the most effective regulation in terms of the firm’s business model. When a company does move, it takes its tax revenue and demand for office space and employees with it. Vertical competition, on the other hand, may not necessarily require companies to move to enjoy the benefits of a different regulatory program.”<sup>15</sup>

### *Minimum Wages and Productivity*<sup>16</sup>

The enactment in 1989 of Republic Act No. 6727, otherwise known as the Wage Rationalization Act, regionalized minimum wage fixing. Regional Tripartite Wages and Productivity Boards were created in every region of the country. Under the law, the Boards are empowered to determine and fix minimum wage rates applicable in their region, provinces or industries therein, and to issue the corresponding wage orders, subject to the guidelines of the National Wages and Productivity Commission.<sup>17</sup> The Commission formulates wage policies and guidelines, reviews

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<sup>12</sup> *Liggett Co. v. Lee*, 288 U.S. 517 (1933). <http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=288&invol=517>

<sup>13</sup> Smith-Bozek, Jennifer. (2007). Regulatory Competition: A Primer. <http://cei.org/studies-point/regulatory-competition-primer>.

<sup>14</sup> Schachtel, Marsha R. B. and Sahmel, Douglas R. (2000). Competitive Governance Strategies for Baltimore City: Lessons from Other Cities. <http://www.beefbaltimore.org/strategies.html>.

<sup>15</sup> J. Smith-Bozek, *op. cit. supra*, note 13 at 1.

<sup>16</sup> J.P. Sale and A.C. Bool, *op. cit.*, note 6 at 81.

<sup>17</sup> LABOR CODE, art. 122.

regional wage levels set by the Boards, and exercises technical and administrative supervision over the Boards.<sup>18</sup> The Boards and the Commission are tripartite in structure and process, that is, the three leading actors in the labor market are represented and involved in the process. Varying in each region of the country are controlling factors like the cost of living; supply and demand for basic goods, services and necessities; and the purchasing power of the peso.<sup>19</sup> Wages in some areas may be increased in order to prevent migration to the National Capital Region and, hence, decongest the metropolis.<sup>20</sup> Other regional disparities, e.g., inflation rate and consumer price index, are taken into account. Among the factors considered by the Boards are the need to induce industries to invest in the countryside and fair return on the capital invested and capacity to pay of employers.<sup>21</sup> Retail/service establishments regularly employing not more than 10 workers may be exempted from the applicability of the law upon application with and as determined by the Boards based on rules issued by the Commission.<sup>22</sup> But productivity is an equally important mandate of the Boards and the Commission. Labor productivity is the ratio of gross domestic product to total employment (national estimate) or the ratio of gross value added to industry employment (industry estimate).<sup>23</sup> In this sense, minimum wages and productivity are aspects of competitive governance.

### *Culture and Collaborative Governance*<sup>24</sup>

Governments could use collaborative governance in lieu of the competitive method since, according to Peters (2001), there is “policy fragmentation” and “polity differentiation.” Collaboration is the latest “one best way” or the last resort when nothing else works due to “wicked” or “intractable” problems (O’Flynn 2009). Problems of governance – poverty, unemployment and underemployment, social and economic exclusion, growing informal economy, among others – endure. Solutions are hard to find.

Culture is a factor. Park (2010), citing Kozan (1997), and Huntington (1996) opine that Asian societies have “associative or collectivistic cultures” – they value general interest above individual interests and are less confrontational. If true, then collaborative governance seems apt for the Philippines. Mechanisms that enable stakeholders to exchange information, harmonize activities, share resources, and enhance capacities – elements of collaboration identified by Himmelman (2002) – ought to be implemented. The Philippines is a developing country with scarce resources. Collaboration, instead of competition, should be the norm. Collaboration entails risk aversion while competition involves risk taking. But are employers and employees

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<sup>18</sup> LABOR CODE, art. 121.

<sup>19</sup> Prubankers Association v. Prudential Bank and Trust Company, G.R. No. 131247, January 25, 1999.

<sup>20</sup> Prubankers Association v. Prudential Bank and Trust Company, G.R. No. 131247, January 25, 1999.

<sup>21</sup> LABOR CODE, art. 124 (e) and (h).

<sup>22</sup> REPUBLIC ACT NO. 6727, sec. 4 (c).

<sup>23</sup> Department of Labor and Employment, Bureau of Labor and Employment Statistics, *op. cit. supra*, note 1 at 31.

<sup>24</sup> See note 11, *supra*. See also Sale, Jonathan P. (2011). The Governance of Decision Making and Labor Dispute Settlement in the Philippines: Shifting Methods from Command to Collaboration or Vice-Versa? Doctoral Dissertation, UP National College of Public Administration and Governance, 08 March 2011.

“associative or collectivistic” by nature? (Sale 2011) Is there empirical evidence of collaborative governance or competitive governance in the Philippine labor market?

*Conflict Management and Resolution and Collaborative Governance: A modified continuum*<sup>25</sup>

In conflict management, the decision makers are the parties themselves, and where a third party (government) is involved, that third party’s role is limited to facilitating amicable settlement. The third party does not decide the labor dispute. In conflict resolution, the third party is the decision maker (authorized to hear evidence and arguments of parties and decide disputes). There are forms of conflict – labor standards disputes (rights issues, those involving assertion of existing rights) which are inter-party and labor relations disputes (interests issues, those involving acquisition of future rights, and rights issues) which are intra-party and inter-party. They can originate from distributive, structural and/or human relations levels. There are voluntary conflict management and resolution mechanisms (by agreement) as there are compulsory conflict management and resolution modes (by directive of law). (Figures 1 and 2) (Sale 2005, 2008, 2009, 2011)

“Historically, public policy established compulsory arbitration as the primary mode for handling labor disputes to substitute the laissez faire approach, e.g., the Spanish civil law (on obligations, contracts and property) and Act 4055 (1933) which provided for voluntary mediation, conciliation and arbitration.<sup>26</sup> This was done through Commonwealth Act 103 (1936) which created the Court of Industrial Relations (CIR) to handle the compulsory arbitration (arbitration by directive of law) of all labor disputes, conformably with the 1935 Constitution. In 1953, Republic Act 875 (Industrial Peace Act) diminished the authority of the CIR and instituted freedom of association and collective bargaining as the primary methods to address labor disputes. Thus, public policy shifted from command to collaboration. In 1974, Presidential Decree 442 (the Labor Code) combined freedom of association and collective bargaining with compulsory arbitration by the Secretary of Labor or the President and the NLRC in specific situations defined by the Code. And under the 1987 Constitution, as explained, voluntary modes in settling labor disputes, including conciliation, are preferred over compulsory modes. Several

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<sup>25</sup> See Sale, Jonathan P. (2011). *The Governance of Decision Making and Labor Dispute Settlement in the Philippines: Shifting Methods from Command to Collaboration or Vice-Versa?* Doctoral Dissertation, UP National College of Public Administration and Governance, 08 March 2011. See also Sale, Jonathan P. (2005). *Labor Dispute Settlement and Decision Making*. *Philippine Journal of Labor and Industrial Relations*, XXV (1 & 2), pp. 13-43; Sale, Jonathan P. (2008). *Approaches to Labor Disputes and Trade Negotiations: Choice-based versus Rule-based Decision Making*. Paper presented at the 8<sup>th</sup> ASEAN Inter-University Conference on Social Development on 30 May 2008, Century Park Hotel, Manila; and Sale, Jonathan P. (2009). *Labor Disputes, Trade Unions and Collective Bargaining: An Analysis from a Decision Theoretic Perspective*. Paper submitted to/presented at the 24-27 August 2009 International Industrial Relations Association (IIRA) World Congress, Sydney, Australia.

<sup>26</sup> Institute for Labor Studies. (2005). *The Assumption and Certification Power in the Philippines: Context, Issues and Options*, p. 13. See *People v. Pomar*, 46 Phil. 440 (1924) and Act 4055 (1933). Also, see Cacadac, H.L.J. and Audea, T.E. (2005). *The State of Philippine Voluntary Arbitration*. [ncmb.ph/publications/VA/Articles/VAPaper.pdf](http://ncmb.ph/publications/VA/Articles/VAPaper.pdf). Accessed 31 January 2011.

amendments to the Labor Code have been introduced to implement this policy preference for voluntary approaches.”<sup>27</sup> (NLRC stands for National Labor Relations Commission.) Through legal origins theory, a legal system is examined to determine its origins (whether of common law or civil law origin) and their relationship with other phenomena.<sup>28</sup>

Figure 1  
CONFLICT FORMS MATRIX

	INTRA – PARTY DISPUTES (Distributive/Structural/Human Relations Level)	INTER – PARTY DISPUTES (Distributive/Structural/Human Relations Level)
LABOR STANDARDS DISPUTES (Rights Issues/Disputes)		<ul style="list-style-type: none"> <li>• Non- and/or underpayment of minimum wage/13<sup>th</sup> month pay</li> <li>• Commission of prohibited acts regarding wages</li> <li>• Non-compliance with rules on hours of work, service incentive leave</li> <li>• Non- and/or underpayment of additional pay for overtime/ rest day/holiday/special day/night work</li> <li>• Discrimination</li> <li>• Non-compliance with health, safety, welfare and other labor standards</li> </ul>
LABOR RELATIONS DISPUTES (Interests and Rights Issues/Disputes)	<ul style="list-style-type: none"> <li>• Intra-union disputes</li> </ul>	<ul style="list-style-type: none"> <li>• Inter-union disputes</li> <li>• Related labor relations disputes</li> <li>• Grievances</li> <li>• Bargaining deadlock</li> <li>• Unfair labor practices (ULP)</li> <li>• Strike/Lock-out</li> <li>• Employment tenure/ termination disputes</li> <li>• Productivity Incentive Program (PIP) issues</li> <li>• Wage distortion issues</li> </ul>

Source: Sale, page 3. See Sale (2011).

Note: The shaded portion indicates that there are no labor standards disputes that are intra-party, that is, all labor standards disputes are inter-party.

<sup>27</sup> Sale, Jonathan P. (2011). The Governance of Decision Making and Labor Dispute Settlement in the Philippines: Shifting Methods from Command to Collaboration or Vice-Versa? Doctoral Dissertation, UP National College of Public Administration and Governance, 08 March 2011, pp. 175-176.

<sup>28</sup> *Id.*, at 62.

Figure 2  
**CONFLICT HANDLING MECHANISMS/STRATEGIES MATRIX\***  
**CONFLICT MANAGEMENT** (Settlement)      **CONFLICT RESOLUTION** (Adjudication/Enforcement)

<b>VOLUNTARY</b>	<ul style="list-style-type: none"> <li>• Collective bargaining (multi-employer)</li> <li>• Voluntary union recognition</li> <li>• Grievance procedure without CBA</li> <li>• Labor – Management Committee/Council (PIP issues)</li> <li>• Trade union combination</li> <li>• Consent election</li> <li>• Compromise agreement</li> <li>• Preventive mediation</li> <li>• AIDA</li> </ul>	<ul style="list-style-type: none"> <li>• Interpleader/Intervention</li> <li>• Voluntary arbitration (VA) of interest/rights issues</li> </ul>
<b>COMPULSORY</b>	<ul style="list-style-type: none"> <li>• Conciliation- Mediation</li> <li>• Collective bargaining (single enterprise)</li> <li>• Strike vote balloting</li> <li>• Improved offer balloting</li> <li>• Grievance procedure under CBA</li> </ul>	<ul style="list-style-type: none"> <li>• VA of rights issues (grievances) under CBA</li> <li>• Compulsory arbitration (CA) by Labor Arbiter</li> <li>• Adjudication by Regional Director (e.g., money claims &lt; or= ₱5,000)</li> <li>• Compliance order</li> <li>• Med-arbitration by BLR/RD (e.g., inter/intra-union disputes like CBA deregistration)</li> <li>• Appeal (to BLR, Secretary, or NLRC)</li> <li>• Injunction/contempt</li> <li>• Assumption of jurisdiction</li> <li>• Certification to NLRC for CA</li> <li>• Judicial action/review</li> </ul>

Source: Sale, page 4. See Sale (2011).

“Collective bargaining involves a process whereby employer and union meet and convene promptly, expeditiously and in good faith for the purpose of negotiating on wages, hours of work and all other terms and conditions of employment, including proposals for adjusting grievances. The outcome is a binding CBA on employment terms and conditions above minimum labor standards.

LMCs enable workers, unionized or not, to participate in policy and decision making processes that directly affect their rights, benefits and welfare.

Preventive mediation covers potential labor disputes while conciliation-mediation applies to actual labor disputes. Conciliation-mediation is undertaken when a notice of strike or lockout is filed. Both involve a third party (public conciliator-mediator) whose role is to facilitate amicable settlement or compromise between the parties-disputants (employer and union) who are the decision makers. The third party does not decide.

In grievance procedure, employer and union bargain over grievances which are questions or controversies about implementation, enforcement or interpretation of CBA provisions and/or company personnel policies. But a grievance procedure (covering questions or controversies about implementation, enforcement or interpretation of company personnel policies) may exist in unorganized establishments.

The parties-disputants may by agreement submit to voluntary arbitration all other labor disputes including unfair labor practices and bargaining deadlocks. The voluntary arbitrator, who is a third party, shall hear the evidence and arguments of the parties-disputants and decide the dispute.”<sup>29</sup>

Grievances not resolved within seven (7) days from submission to the last step in the grievance procedure of the CBA automatically go to voluntary arbitration.

The Regional Director of the Department of Labor and Employment has authority to adjudicate workers’ money claims not exceeding P5000.

Compulsory arbitration, which is a form of conflict resolution by directive of law, involves government as a third-party decision maker whose decision (command) is binding on the disputants.

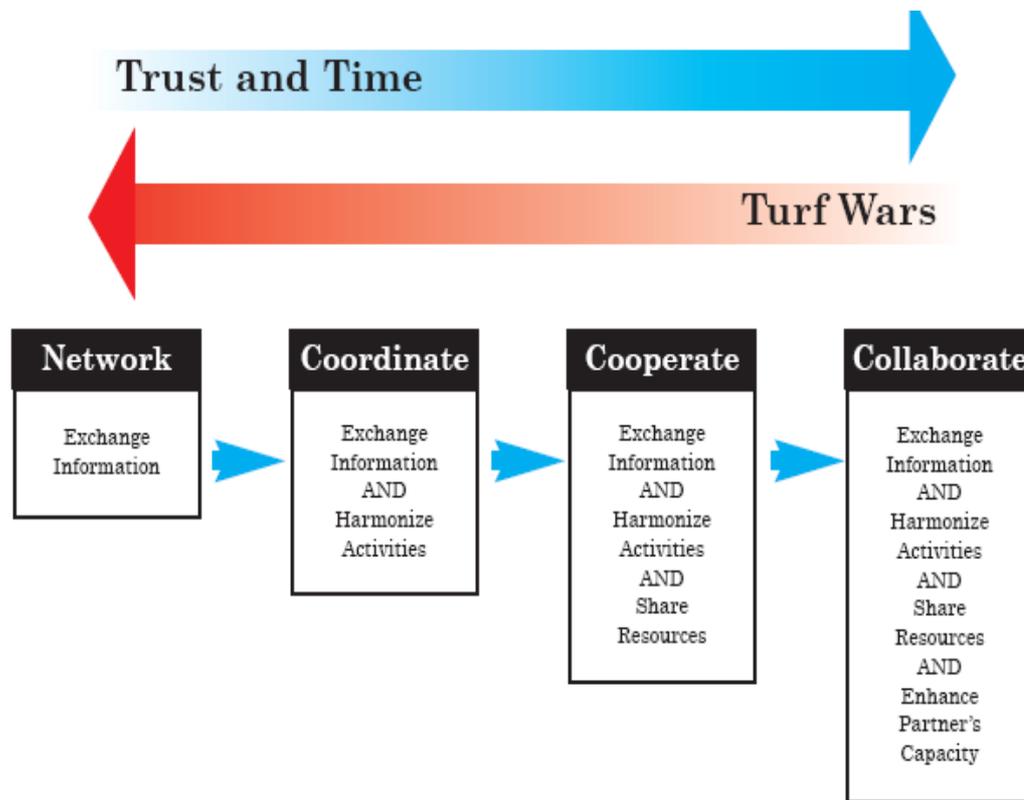
Decision making is crucial to governing. Peters identified four approaches: market (relies on internal markets, market incentives and signals), participative (involves negotiations, consultations and political signals), flexible (there is experimentation, trial and error, but error is not institutionalized), and deregulated government (there is less regulation, more entrepreneurship and acceptance of error). (Sale 2011)

And Torres and Margolin (2003) cite Himmelman in their continuum on collaboration and other forms of working together (Figure 3).

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<sup>29</sup> *Id.*, at 171-172. CBA stands for collective bargaining agreement. AIDA means Administrative Intervention for Dispute Avoidance. Regional Director refers to the Regional Director of the Department of Labor. BLR stands for Bureau of Labor Relations and RO refers to Regional Office of the Department of Labor. Secretary refers to the Secretary of Labor and NLRC means National Labor Relations Commission.

Figure 3 – Forms of Working Together<sup>30</sup>



Based on concepts from A.T. Himmelman "Collaboration for a Change: Definitions, Models, Roles and a Collaboration Process Guide" and a tool developed by Lancaster Community Health Plan.

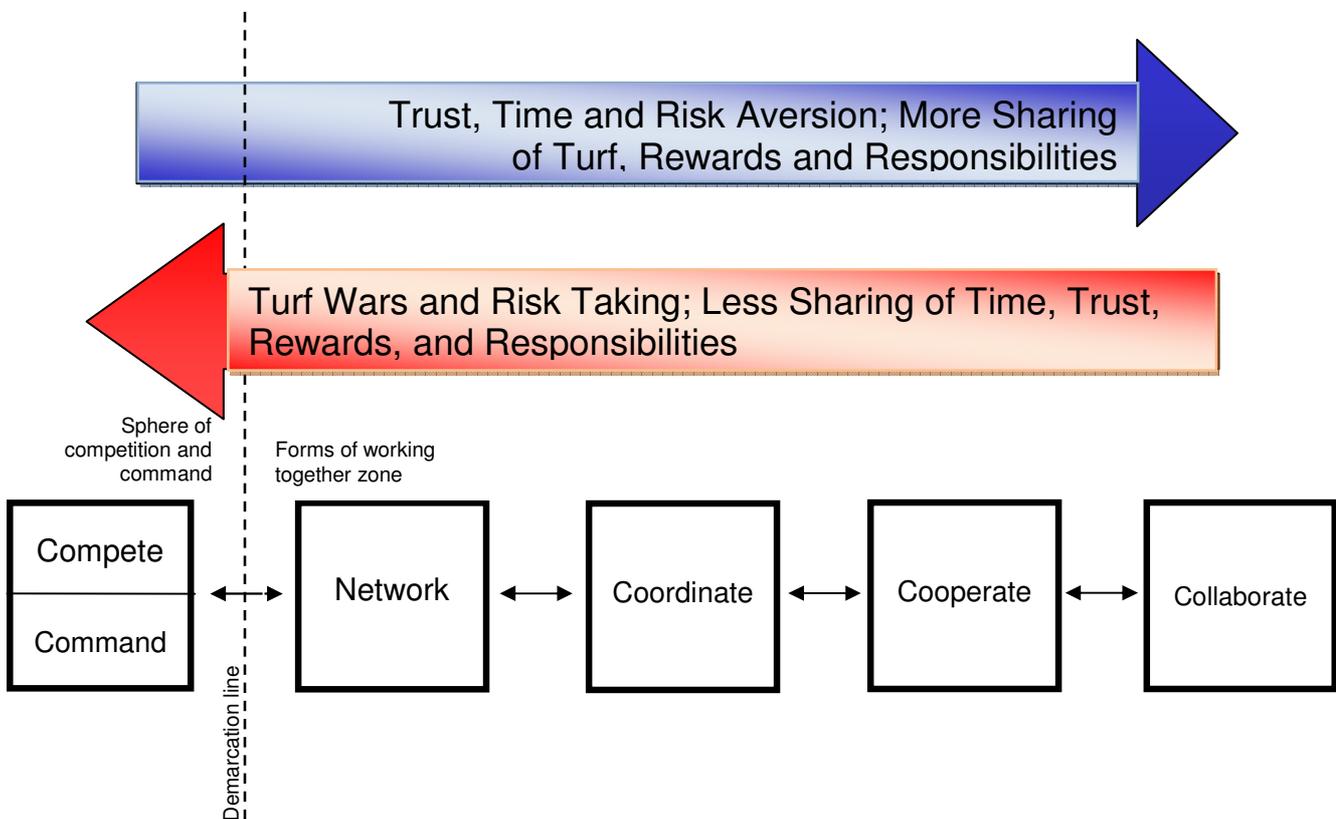
Source: Torres and Margolin, page 3. See Sale (2011).

<sup>30</sup> Taken from Torres, Gretchen Williams and Margolin, Frances S. (2003). The Collaboration Primer. Health Research and Education Trust. <http://www.aone.org/hret/programs/content/colpri.pdf>. Accessed 21 October 2009. See Sale, Jonathan P. (2011). The Governance of Decision Making and Labor Dispute Settlement in the Philippines: Shifting Methods from Command to Collaboration or Vice-Versa? Doctoral Dissertation, UP National College of Public Administration and Governance, 08 March 2011, p. 12. See also Sale, Jonathan P. and Bool, Arlene C. (2010). Turnover, Voice, Risks and Collaboration in Philippine Call Centers: Are Public Policy Reforms Needed? Paper presented at the 47<sup>th</sup> Annual Canadian Industrial Relations Association (CIRA) Congress/International Interuniversity Research Centre on Globalization and Work (CRIMT) Conference, 16<sup>th</sup> to 18<sup>th</sup> June 2010, Université Laval, Quebec, Canada which cites Torres and Margolin's The Collaboration Primer and Sale's Doctoral Dissertation.

As parties move from networking through coordination, cooperation and collaboration, they share **more** time, trust, turf, risks, rewards, and responsibilities. (Sale 2011)

But if parties move in the opposite direction, they share **less** time, trust, turf, risks, rewards, and responsibilities and, past networking, enter the sphere of competition and command (by government) (Figure 4). (Sale 2011)

Figure 4 – A modified continuum:  
From command (competition) to collaboration and vice-versa<sup>31</sup>



Source: Torres and Margolin, page 3, as modified by Sale (2011).

<sup>31</sup> J.P. Sale, *op. cit.*, note 27 at 174.

The voluntary and compulsory conflict management mechanisms in Figure 2 partake of the nature of participative, flexible, deregulated, and market government. Moreover, said mechanisms are forms of working together, i.e., networking, coordination, cooperation, and collaboration. They typify collaborative governance. (Sale 2011) Compulsory arbitration exemplifies competitive governance because parties-disputants take risks, compete and seek decision (command) by government.

## METHODS

This research uses a combination of methods. Recent aggregate quantitative data from the Philippines' Department of Labor and Employment (DoLE), Bureau of Labor and Employment Statistics and National Wages and Productivity Commission on unemployment, underemployment, unions, collective bargaining, workers' associations, conflict management and resolution, minimum and average wages, compliance rates on labor inspections, small and big enterprises, labor productivity, among others, are analyzed using line charts and tables to show trends across regions and over time, as well as significant correlations from the prior research of Sale (2011)<sup>32</sup> on governance, decision making and labor dispute settlement in the country.

## RESULTS AND DISCUSSION

### *Some LMG indicators across regions*

In the figures that follow (Figures 5 to 16), values in the x-axis represent the 17 regions of the Philippines –

- 1 – National Capital Region
- 2 – Cordillera Administrative Region
- 3 – Ilocos Region
- 4 – Cagayan Valley
- 5 – Central Luzon
- 6 – CALABARZON
- 7 – MIMAROPA
- 8 – Bicol Region
- 9 – Western Visayas
- 10 – Central Visayas
- 11 – Eastern Visayas
- 12 – Zamboanga Peninsula
- 13 – Northern Mindanao

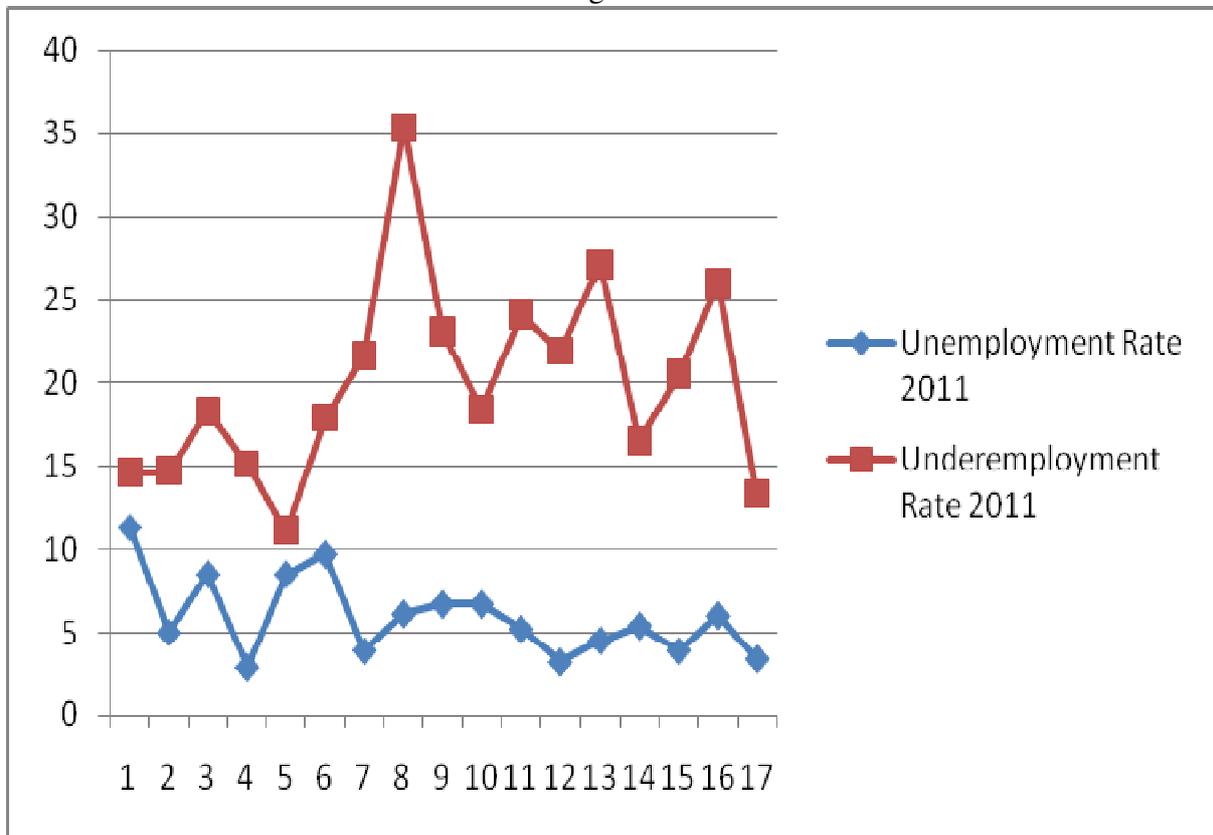
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<sup>32</sup> *Id.*, at 87-98.

- 14 – Davao Region
- 15 – SOCCSKSARGEN
- 16 – Caraga
- 17 – Autonomous Region in Muslim Mindanao

The unemployment rate is highest in the National Capital Region (NCR or Metro Manila) at above 10%. But the underemployment rate is higher outside NCR (above 20% in 8 regions), save for the Cordillera Administrative Region, Central Luzon and Autonomous Region in Muslim Mindanao. (Figure 5)

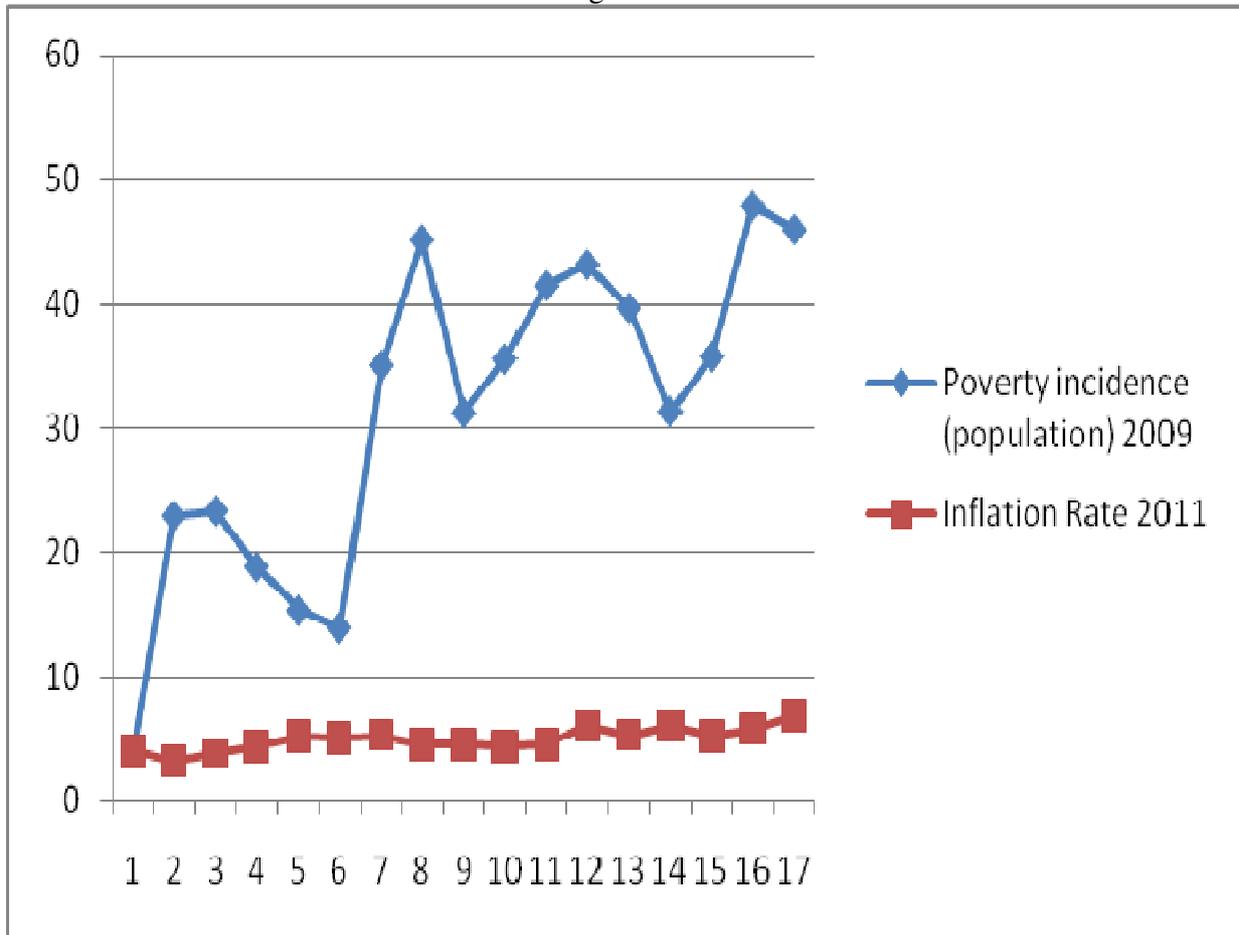
Figure 5



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

Poverty incidence is higher outside the NCR, reaching more than 30% in 11 regions, while inflation rate is nearly flat across regions. (Figure 6)

Figure 6

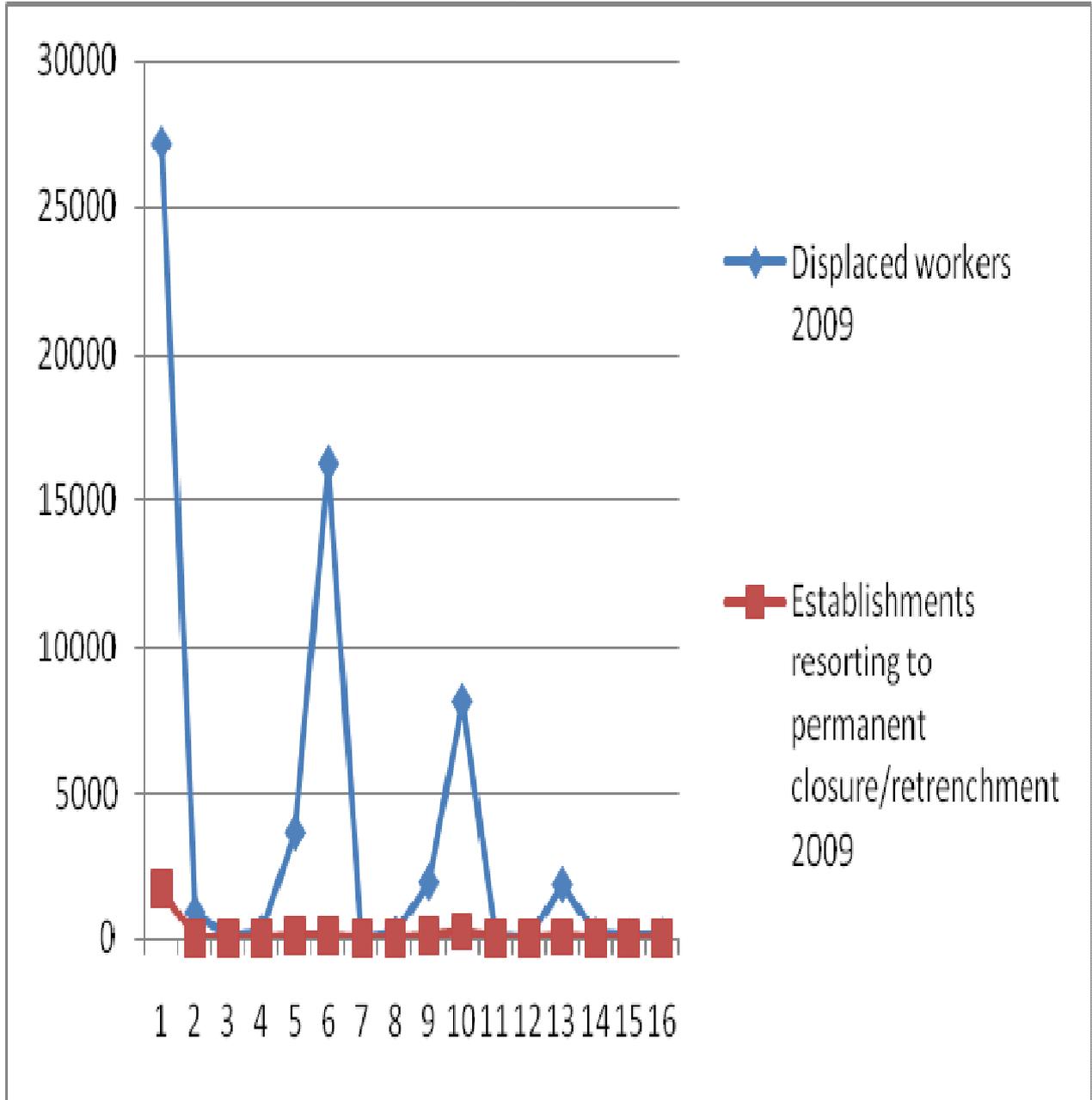


SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

The consumer price index reached 122.0 in the NCR and 129.4 outside NCR in December 2011, according to the Bureau of Labor and Employment Statistics.

Meanwhile, displaced workers and establishments resorting to permanent closure/retrenchment have been higher in the NCR compared to other regions. (Figure 7)

Figure 7

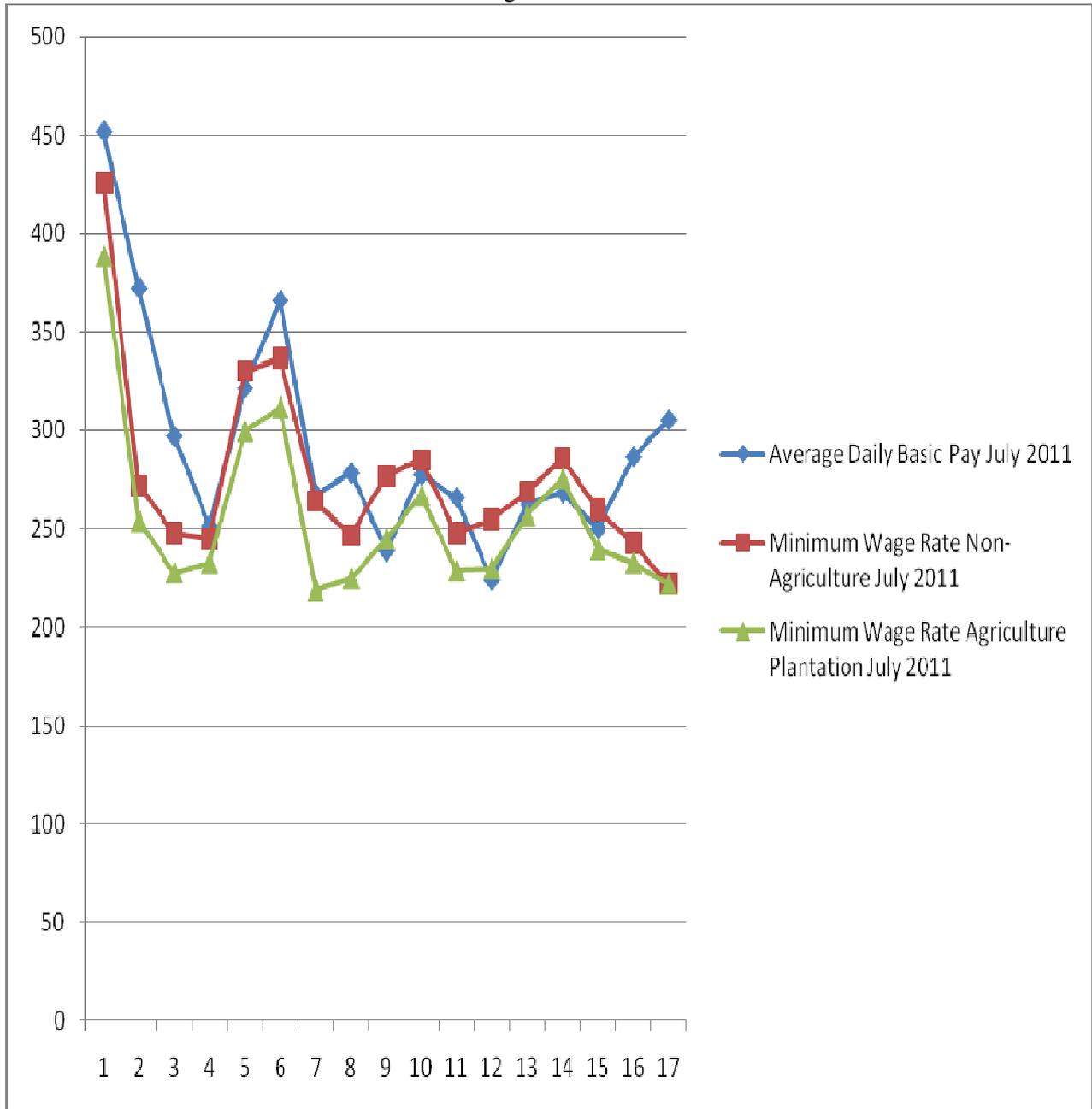


SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

Average daily basic pay as well as non-agriculture and agriculture (plantation) minimum wage rates are highest in the NCR. The data indicate that average daily basic pay is relatively higher

than minimum wage rate across regions, except for a few where the minimum rates are higher (Central Luzon, Western Visayas, Central Visayas, Zamboanga Peninsula, Northern Mindanao, Davao Region, and SOCCSKSARGEN). But disparities among average and minimum rates are not substantial (except for the Cordillera Administrative Region and Autonomous Region in Muslim Mindanao). This suggests that the minimum wage rates are determinative of the average rates across regions in the country. Typically, the agriculture minimum wage rate is lower than the non-agriculture minimum wage rate. (Figure 8)

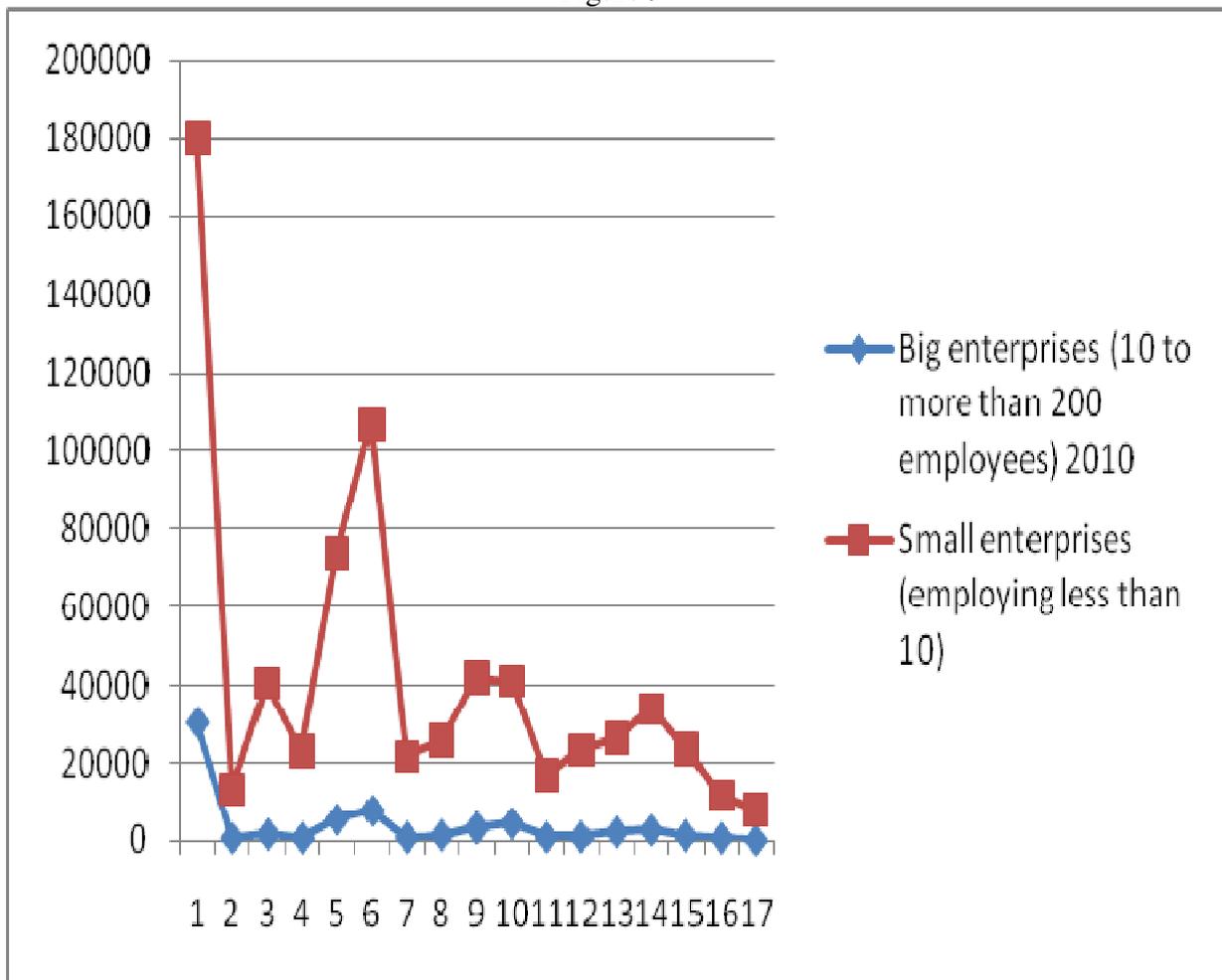
Figure 8



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

Small enterprises (those employing less than 10) surpass big enterprises (those employing 10 to more than 200), even in the NCR (where the difference is huge). Small enterprises comprise about 91% of the total number of establishments in the country. This means that almost all establishments (assuming they are retail or service establishments) may be exempted from the applicability of minimum wages upon application with and as determined by the Regional Tripartite Wages and Productivity Boards based on rules issued by the National Wages and Productivity Commission. About 75% of small enterprises exist or operate outside the NCR where underemployment rate, poverty incidence, consumer price index, and membership in workers' associations are generally higher but establishments resorting to permanent closure/retrenchment, displaced workers, unemployment rate, average daily basic pay, minimum wage rates (non-agriculture and agriculture), labor productivity, union membership, CBA coverage, and compliance rate on minimum wages and general labor standards upon inspection are usually lower. (Figure 9, in relation to Figures 5, 6, 7, 8, 10, 11, 12, 13, 14, 15)

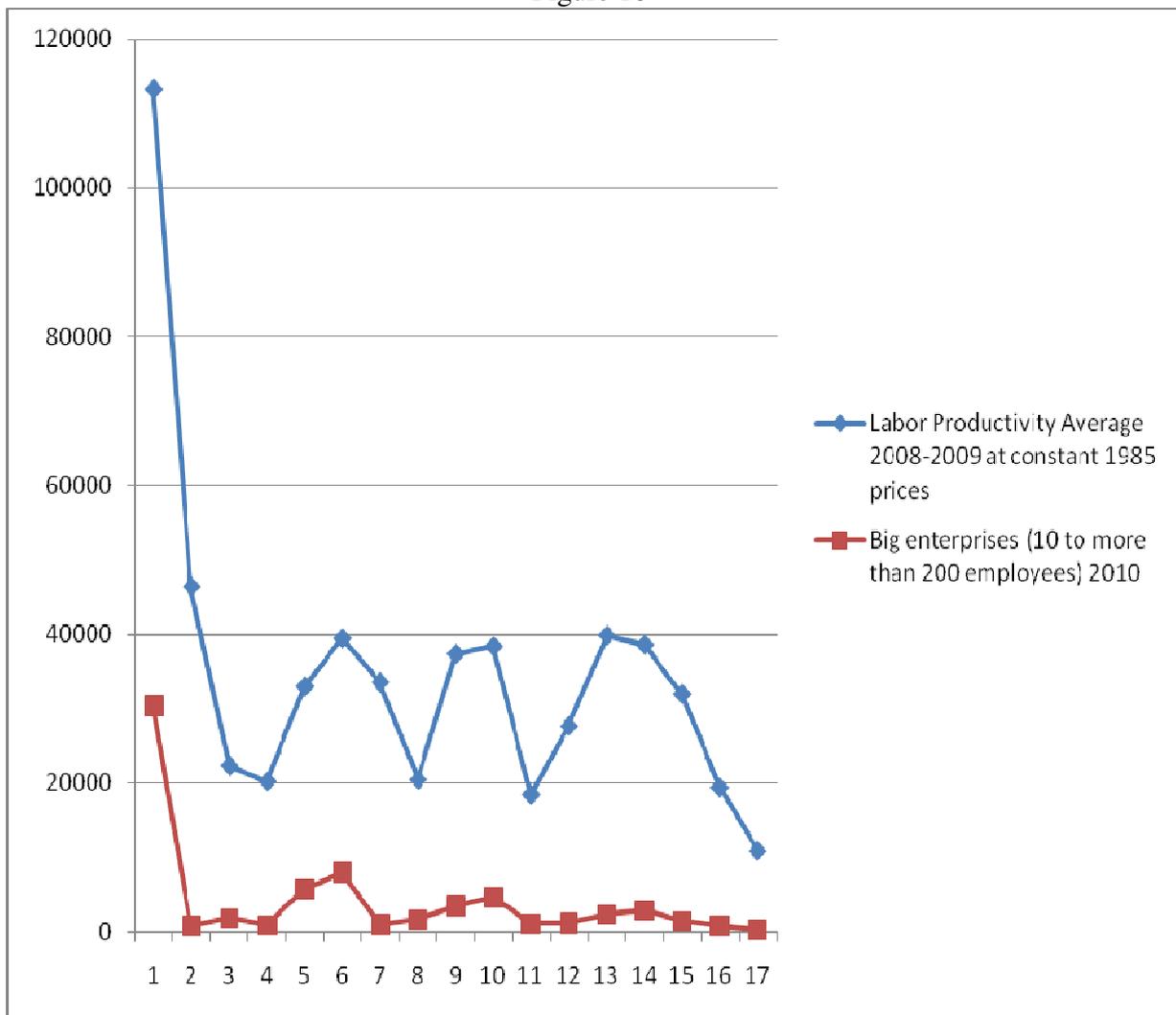
Figure 9



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

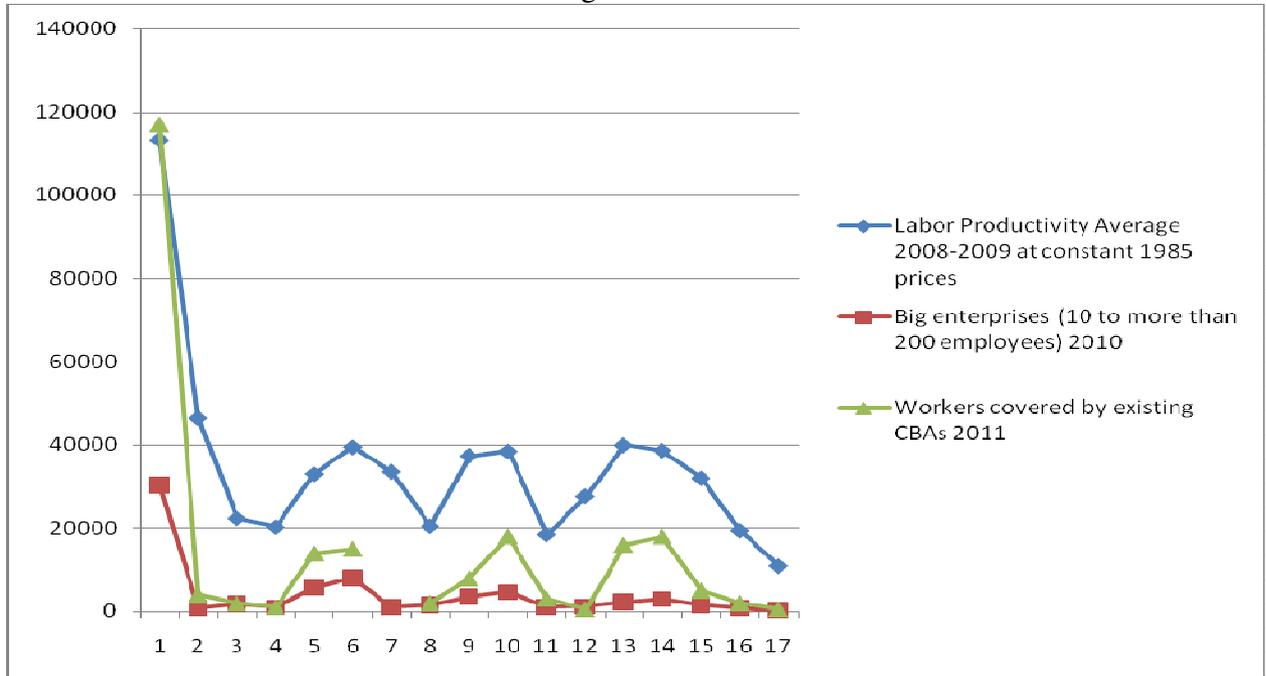
Labor productivity and workers covered by CBAs are much lower outside the NCR, where there is an abundance of small enterprises (about 75% of all small enterprises) as already noted. Particularly, labor productivity, small and big enterprises and workers covered by CBAs follow similar patterns and directions, i.e., the y-axis values tend to move up and down simultaneously in many regions (x-axis values). The data suggest that there is a relationship among small and big enterprises, CBA coverage and labor productivity. (Figures 10, 11 and 12)

Figure 10



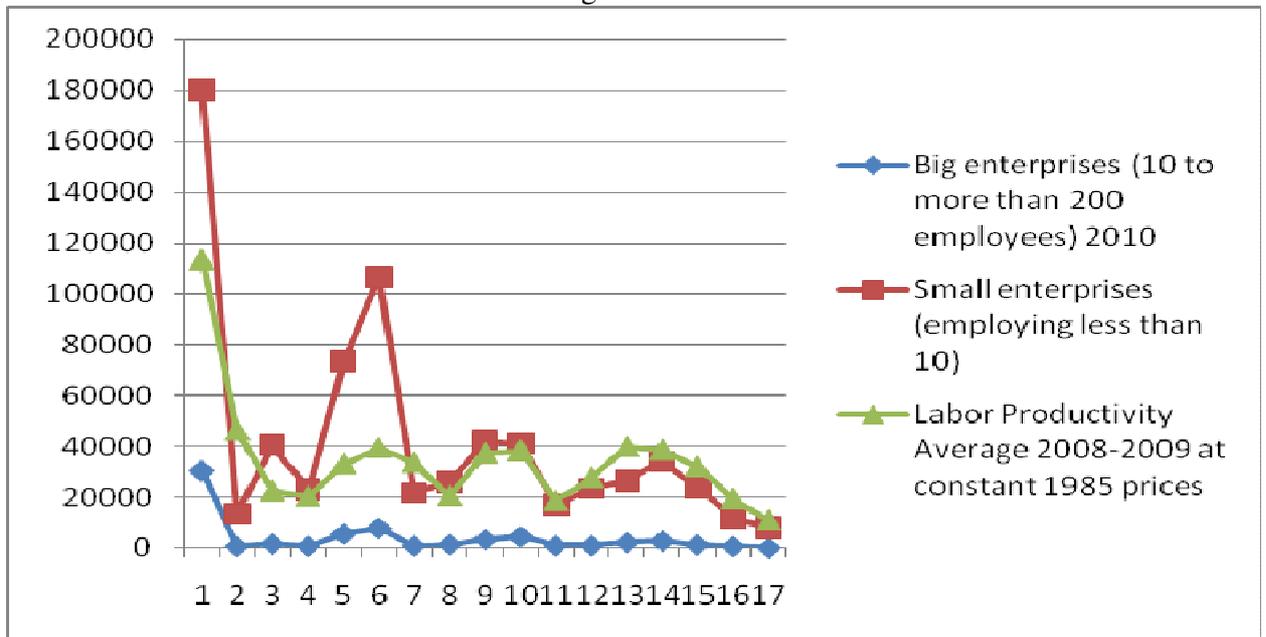
SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics and National Wages & Productivity Commission.

Figure 11



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics and National Wages & Productivity Commission.

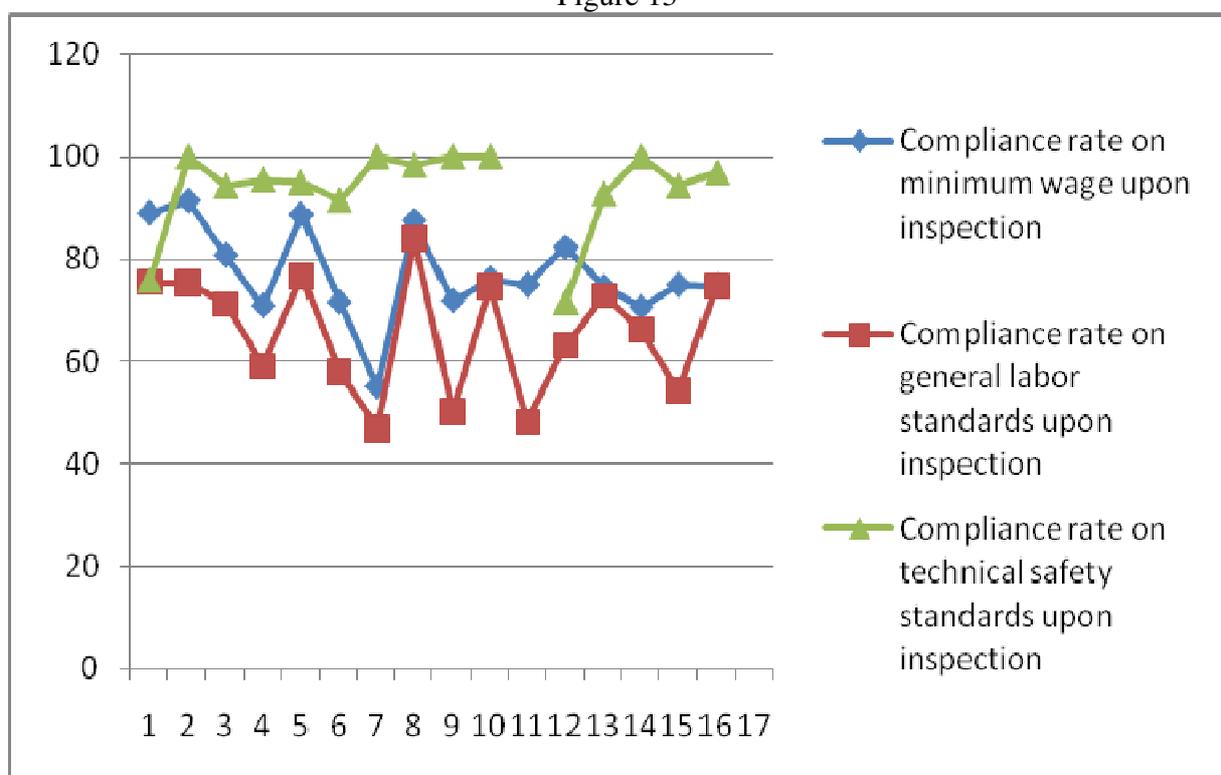
Figure 12



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics and National Wages & Productivity Commission.

In January to September 2011, compliance rate on minimum wages fell below 80% in 10 regions outside the NCR, while compliance rate on general labor standards fell below 60% in 6 regions outside the NCR. Compliance rate on technical safety standards was above 80% in 13 regions. Significantly, compliance rates on general labor standards and technical safety standards were below 80% in the NCR. The data suggest that, across regions, compliance rates on minimum wages and general labor standards upon inspection need improvement. (Figure 13)

Figure 13

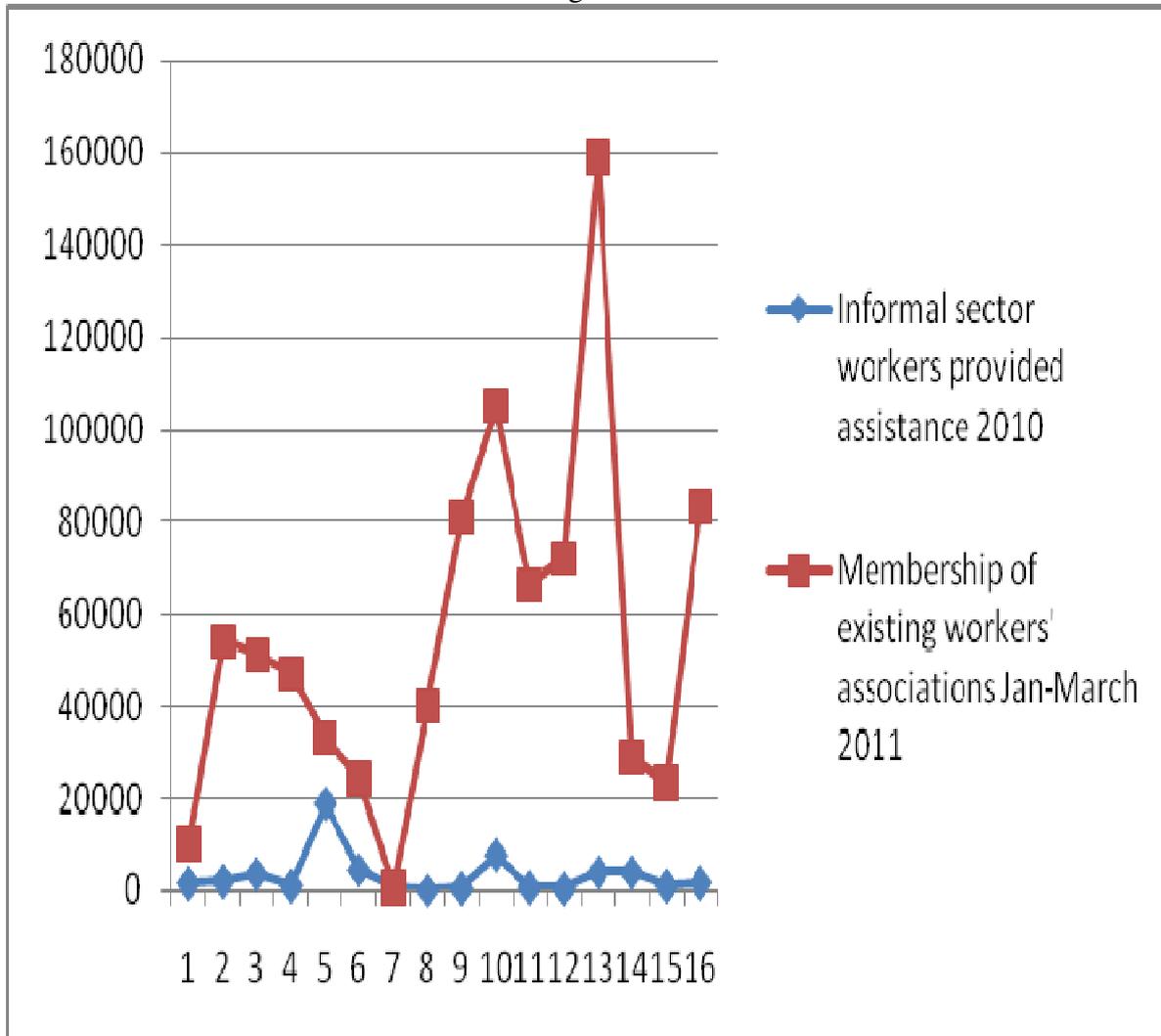


SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

Membership in workers' associations<sup>33</sup> is generally higher outside the NCR. This is significant because such associations include ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers (in the informal economy). However, not too many informal sector workers were provided some form of government assistance in 2010. (Figure 14)

<sup>33</sup> Workers' associations are organized for mutual aid and protection, but not for collective bargaining. See Implementing Rules of Book V, LABOR CODE. Ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers (in the informal economy) may form such associations. See LABOR CODE, art. 243.

Figure 14



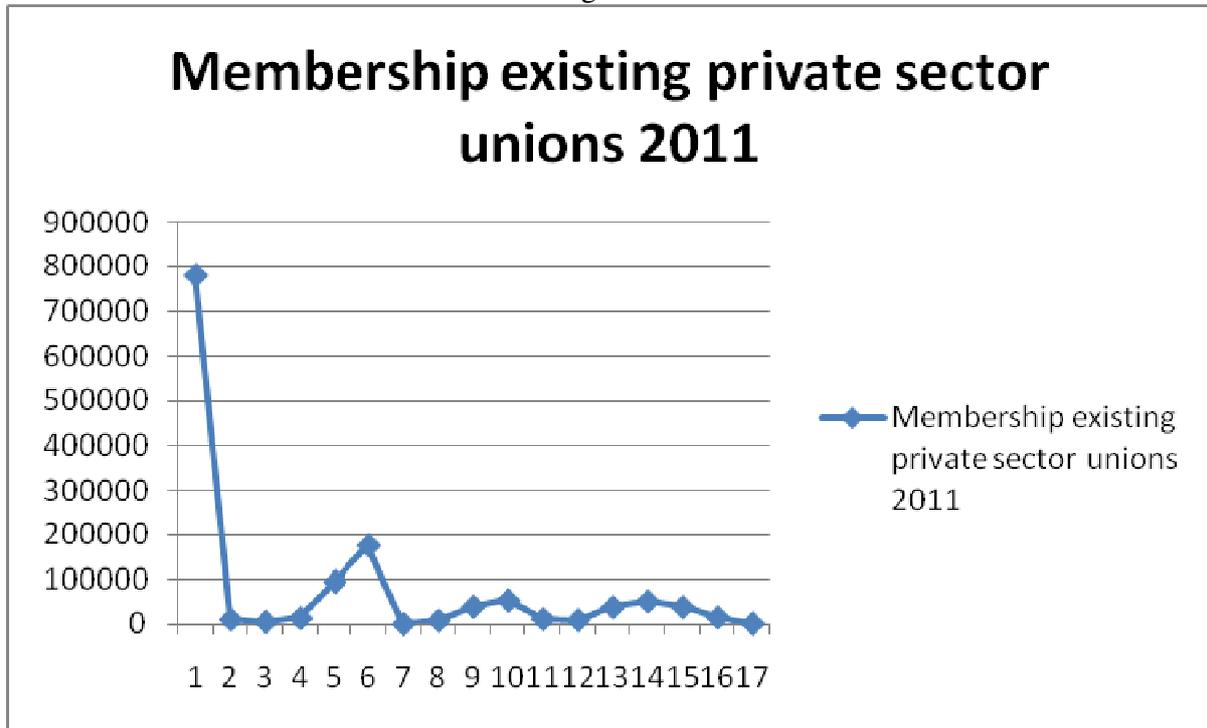
SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

In stark contrast, union<sup>34</sup> membership is concentrated in the NCR. Union membership outside the NCR, even if combined, would not equal that in the NCR. (Figure 15)

But workers' association membership (867,499) outnumbers union membership (577,000) outside the NCR. And workers' association membership is higher than union membership in 10 regions.

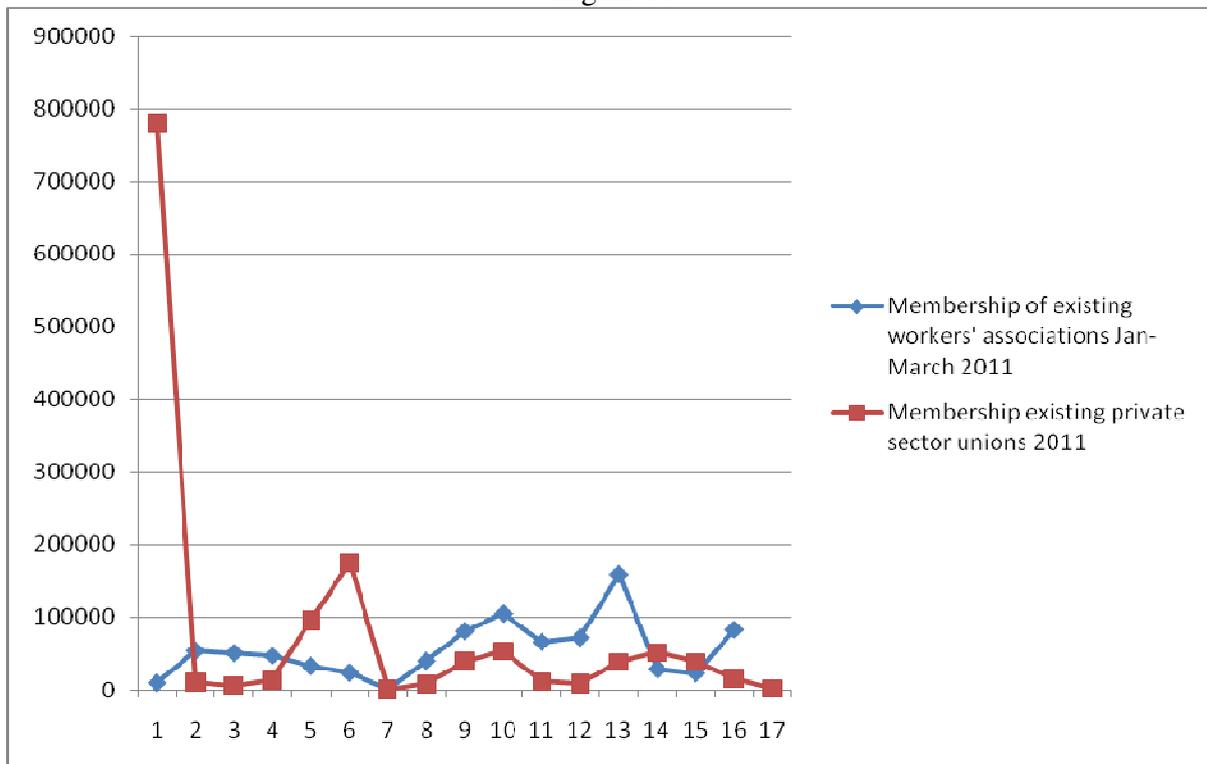
<sup>34</sup> Unions are organized in whole or in part for the purpose of collective bargaining or of dealing with the employer regarding terms and conditions of employment. See LABOR CODE, art. 212.

Figure 15



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

Figure 16



SOURCE: Sale in this study, based on data from Bureau of Labor & Employment Statistics.

*Some LMG indicators over time*

Union membership and CBA coverage have been decreasing over time. (Table 1)

**Table 1 – Unions and CBAs<sup>35</sup>**

INDICATORS	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Union Membership in Thousands	3731	3788	3850	1469	1517	1572	1910	1855	1918	1942	1985
% to Total Wage and Salary Workers	27.10	27.20	26.70	10.00	9.90	9.50	11.70	11.00	11.00	-	-
Existing CBAs	2956	2687	2518	2700	2842	2798	2793	1742	1542	1456	1394
Workers covered by CBAs	529078	484278	461559	528029	556374	555000	556000	251796	218128	227000	225000

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

The same can be said about preventive mediation, workers covered by LMCs, voluntary arbitration (VA), med-arbitration, and workers involved in strike/lockout notices. But other cases handled by DoLE Regional Offices (money claims not exceeding P5000) and compulsory arbitration cases have been increasing. (Tables 2, 3, 4, 5, and 6)

**Table 2 – Preventive Mediation and LMCs<sup>36</sup>**

INDICATORS	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Preventive Mediation Cases	859	827	802	871	809	714	751	620	548	573	532
Workers covered by Labor Management Councils	4928	3835	4481	2655	5057	4349	3112	1876	2113	2511	-

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

**Table 3 – VA<sup>37</sup>**

INDICATOR	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Voluntary Arbitration Cases	323	312	326	337	298	259	240	257	260	226	221

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

<sup>35</sup> J.P. Sale, *op. cit.*, note 27 at 72. Data taken from [www.bles.dole.gov.ph](http://www.bles.dole.gov.ph).

<sup>36</sup> *Id.*, at 73.

<sup>37</sup> *Ibid.*

**Table 4 – Med-Arbitration and other cases handled by DoLE Regional Offices<sup>38</sup>**

INDICATORS	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Med-Arbitration Cases	696	844	1043	861	854	713	517	489	469	494	362
Other Labor Cases handled by DoLE Regional Offices (money claims not exceeding P5000)	5528	5591	5006	4994	5187	5079	5019	5622	5418	5465	5776

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

**Table 5 – Compulsory Arbitration<sup>39</sup>**

INDICATORS	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Original Compulsory Arbitration Cases	43756	42501	43684	49058	52833	50971	47519	45083	46338	45386	44460
Appealed Compulsory Arbitration Cases	13156	15696	16207	16530	16350	17156	17984	17927	17342	19153	17363

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

**Table 6 – Strikes/Lockouts<sup>40</sup>**

INDICATOR	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Workers Involved in Strike/Lockout Notices	164291	149186	142706	159142	108546	124605	109724	80302	72901	75000	60000

SOURCE: Sale (2011), based on data from Bureau of Labor & Employment Statistics.

Sale (2011) found significant correlations (using data in Tables 1 to 6 in computing correlation values via the Statistical Package for the Social Sciences).

“A positive correlation exists between percentage of unionized workers to total wage and salary workers and union membership at a 0.01 significance level, while a negative correlation appears between percentage of unionized workers to total wage and salary workers and –

1. original compulsory arbitration cases at a 0.05 significance level;
2. appealed compulsory arbitration cases at a 0.05 significance level; and
3. year at a 0.05 significance level.”<sup>41</sup> (Table 7)

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<sup>38</sup> *Id.*, at 74.

<sup>39</sup> *Id.*, at 75.

<sup>40</sup> *Id.*, at 76.

<sup>41</sup> *Id.*, at 88.

**Table 7– Percentage to total wage and salary workers, et al.**<sup>42</sup>

INDICATORS		UNION MEMBERSHIP IN THOUSANDS	ORIGINAL COMPULSORY ARBITRATION CASES	APPEALED COMPULSORY ARBITRATION CASES	YEAR
Percent to Total Wage and Salary Workers	Pearson Correlation	.995**	-.791*	-.725*	-.792*
	Sig. (2-tailed)	.000	.011	.027	.011
	N	9	9	9	9

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

SOURCE: Sale (2011).

“A positive correlation exists between number of existing CBAs and –

1. number of workers covered by CBAs at a 0.01 significance level;
2. preventive mediation cases at a 0.01 significance level;
3. number of workers covered by LMCs at a 0.01 significance level;
4. voluntary arbitration cases at a 0.05 significance level;
5. med-arbitration cases at a 0.05 significance level; and
6. number of workers involved in strike/lockout notices at a 0.01 significance level.

There is a negative correlation between number of existing CBAs and –

1. appealed compulsory arbitration cases at a 0.05 significance level; and
2. year at a 0.01 significance level.”<sup>43</sup> (Table 8)

**Table 8 – Existing CBAs, et al.**<sup>44</sup>

INDICATORS		NUMBER OF WORKERS COVERED BY CBAS	PREVENTIVE MEDIATION CASES	WORKERS COVERED BY LMCs	VOLUNTARY ARBITRATION CASES	MED-ARBITRATION CASES	APPEALED COMPULSORY ARBITRATION CASES	WORKERS INVOLVED IN STRIKE/ LOCKOUT NOTICES	YEAR
Number of existing CBAs	Pearson Correlation	.987**	.925**	.774**	.675*	.712*	-.620*	.858**	-.841**
	Sig. (2-tailed)	.000	.000	.009	.023	.014	.042	.001	.001
	N	11	11	10	11	11	11	11	11

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

SOURCE: Sale (2011)

<sup>42</sup> *Ibid.*

<sup>43</sup> *Id.*, at 88-89.

<sup>44</sup> *Id.*, at 89.

“There exists a negative correlation between other cases handled by DoLE Regional Offices (money claims not exceeding P5000) and number of workers covered by CBAs at a 0.01 significance level.”<sup>45</sup> (Table 9)

**Table 9 – Other labor cases handled by DoLE Regional Offices and number of workers covered by CBAs<sup>46</sup>**

INDICATORS		NUMBER OF WORKERS COVERED BY CBAS
Other Labor Cases Handled by DoLE Regional Offices (money claims P5000 or less)	Pearson Correlation	-.664*
	Sig. (2-tailed)	.026
	N	11

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

SOURCE: Sale (2011)

“Compulsory arbitration cases are inversely correlated to union membership at a 0.01 significance level. Likewise, compulsory arbitration cases and percentage of unionized workers to total wage and salary workers are inversely correlated but at a 0.05 significance level.”<sup>47</sup> (Table 10)

**Table 10 – Compulsory arbitration, union membership and percentage to total wage and salary workers<sup>48</sup>**

INDICATORS		UNION MEMBERSHIP IN THOUSANDS	PERCENT TO TOTAL WAGE AND SALARY WORKERS
Compulsory Arbitration Cases	Pearson Correlation	-.742**	-.791*
	Sig. (2-tailed)	.009	.011
	N	11	9

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

SOURCE: Sale (2011)

“There is a positive correlation between number of workers involved in strike/lockout notices and –

1. number of existing CBAs at a 0.01 significance level;
2. number of workers covered by CBAs at a 0.01 significance level;
3. preventive mediation cases at a 0.01 significance level;
4. voluntary arbitration cases at a 0.01 significance level; and
5. med-arbitration cases at a 0.01 significance level.

<sup>45</sup> *Id.*, at 93.

<sup>46</sup> *Ibid.*

<sup>47</sup> *Id.*, at 94.

<sup>48</sup> *Ibid.*

The number of workers involved in strike/lockout notices is inversely correlated to appealed compulsory arbitration cases at a 0.01 significance level.”<sup>49</sup> (Table 11)

**Table 11 – Workers involved in strike/lockout notices, et al.**<sup>50</sup>

INDICATORS		NUMBER OF EXISTING CBAS	NUMBER OF WORKERS COVERED BY CBAS	PREVENTIVE MEDIATION CASES	VOLUNTARY ARBITRATION CASES	APEALED COMPULSORY ARBITRATION CASES	MED-ARBITRATION CASES	YEAR
Workers Involved in Strike/ Lockout Notices	Pearson Correlation	.858**	.810**	.944**	.877**	-.744**	.801**	-.953**
	Sig. (2-tailed)	.001	.003	.000	.000	.009	.003	.000
	N	11	11	11	11	11	11	11

\*\* Correlation is significant at the 0.01 level (2-tailed).

\* Correlation is significant at the 0.05 level (2-tailed).

SOURCE: Sale (2011)

## CONCLUSIONS

Based on data across regions, there is an abundance of small enterprises (workplaces with less than 10 workers) existing outside the NCR where underemployment rate, poverty incidence, consumer price index, and membership in workers’ associations are in general higher, but where the number of establishments resorting to permanent closure/retrenchment and displaced workers, unemployment rate, average daily basic pay, minimum wage rate, labor productivity, union membership, CBA coverage, and compliance rate on minimum wages and general labor standards upon inspection are also typically lower.

Over all, small enterprises comprise more than 90% of the total number of establishments in the Philippines. This means that these enterprises may seek exemption from minimum wage rates, thus creating doubts about the efficacy of the existing minimum wage policy which is a social justice measure as well since it also aims to (i) meet the demand for living wages and needs of workers and their families, (ii) improve the standards of living and (iii) attain equitable distribution of income and wealth. These are among the standards/criteria for minimum wage fixing under Article 124 of the Labor Code. The preponderance of small enterprises likewise contributes to low trade union density and CBA coverage as unions find it impracticable to organize workplaces with less than 10 workers.

On the other hand, membership in workers’ associations, which includes ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers (in the informal economy, which, according to the International Labour Office,

<sup>49</sup> *Id.*, at 95.

<sup>50</sup> *Id.*, at 96.

includes small-scale income generating activities outside official regulatory frameworks that use low levels of capital, technology and skills and provide low incomes and unstable employment, excluding “underground” activities that deliberately evade taxes and regulations), is usually higher outside the NCR. In fact, workers’ association membership is about 150% greater than union membership outside the NCR where small enterprises also flourish.

Over time, trade union density and CBA coverage have been decreasing. Concomitantly, preventive mediation, workers covered by LMCs, VA, med-arbitration, and workers involved in strike/lockout notices are declining. But competitive/command (compulsory conflict resolution) methods such as workers’ money claims not exceeding P5000 (adjudication by DoLE Regional Directors) and compulsory arbitration are increasing. Because disputants are not covered by collective bargaining agreements, they take risks by competing and using compulsory conflict resolution modalities (command by government), as may be gleaned, for instance, from the big number of compulsory arbitration (CA) cases (e.g., there were more than 60,000 original and appealed CA cases as against only 221 VA and 532 preventive mediation cases in 2009, Table 5 in relation to Tables 2 and 3).

These labor market outcomes are being influenced by competitive governance, e.g., the public policy on minimum wages that factors in the need to induce industries to invest in the countryside as well as a fair return on the capital invested by, and the capacity to pay of, employers. Horizontal competition, where enterprises move to the jurisdiction that provides the most effective regulation in terms of the enterprise’s business model, is happening.

For instance, the enterprise’s decision (whether the enterprise is small or big) to invest in the metropolis, instead of the countryside, is driven in part by labor productivity which is a lot higher in the NCR, albeit average and minimum wages are also higher in the NCR. This business decision is considered a management function or prerogative. Labor productivity somehow ensures a fair return on the capital invested by, and the capacity to pay of, the employer.

But 75% of all small enterprises exist or operate outside the NCR where labor productivity and the number of big enterprises are much lower, and union membership, CBA coverage and minimum and average wage rates are also lesser. Small enterprises have greater flexibility in adopting cost-reduction measures. That is why underemployment rate is higher, too, outside the NCR (above 20% in 8 regions, including the Bicol Region where underemployment rate reached about 35%). High underemployment rate “reflects the severity of the lack of jobs. Workers are constrained to accept low-productivity/ low-paying jobs under difficult conditions and even shorter work hours because the other option is open unemployment.”<sup>51</sup>

The legal origins of the system have something to do with these. The hybrid character of the Philippine legal system is contributing to these outcomes. Philippine law on management

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<sup>51</sup> *Id.*, at 143-144.

prerogative is of civil law origin while that on freedom of association, collective bargaining and minimum wage is of common law origin.<sup>52</sup> Civil law starts from theory (abstract concepts/principles) and uses deductive logic while common law begins from observation (empirical evidence) and relies on inductive logic.<sup>53</sup> The system incoherence or inconsistency is summarized in the table that follows.

**Table 12 - Legal origins of labor relations and property rights<sup>54</sup>**

<b>Period</b>	<b>Of common law origin</b>	<b>Of civil law origin</b>
Pre-commonwealth (prior to 1936)	Act 4055 (1933) provided for voluntary mediation, conciliation and arbitration  Basic policy: laissez faire	Spanish civil law applied to relations between labor and capital, particularly the law on obligations, contracts and property  Basic policy: laissez faire
Commonwealth (1936 to 1953)	Commonwealth Act 103 (1936) established compulsory arbitration by CIR of all labor disputes and Philippine Civil Code (1950) introduced “Contract of Labor”  Basic policy: social justice	Spanish civil law on property applied to management function or prerogative, which was retained in the Philippine Civil Code (1950)  Basic policy: laissez faire
Industrial Peace Act (1953 to 1972)	Philippine Civil Code (1950) provisions on “Contract of Labor” applied; Republic Act 875 (1953) provided for the primacy of freedom of association and collective bargaining; compulsory arbitration by CIR was limited to specified/defined situations  Basic policy: social justice	Philippine Civil Code (1950) on property rights applied to management function or prerogative  Basic policy: laissez faire
Martial law (1972 to 1986)	Philippine Civil Code (1950) provisions on “Contract of Labor” applied; Labor Code (1974)	Philippine Civil Code (1950) on property rights applied to management function or prerogative

<sup>52</sup> See note 11.

<sup>53</sup> Agabin, Pacifico. (2011). 7th UP Law Centennial Lecture titled “The Common Law’s Century: The Age of Capitalism and Globalization,” Malcolm Theater, University of the Philippines College of Law, 7 October 2011.

<sup>54</sup> J.P. Sale, *op. cit.*, note 27 at 152-153.

	provided for the primacy of freedom of association and collective bargaining; compulsory arbitration by Secretary of Labor or President and NLRC was limited to specified/defined situations  Basic policy: social justice	Basic policy: laissez faire
Post-martial law (1986 to present)	Philippine Civil Code (1950) provisions on “Contract of Labor” and 1987 Constitution provisions on Social Justice apply; Labor Code provides for the primacy of freedom of association and collective bargaining and preference for voluntary modes in settling labor disputes, including conciliation; compulsory arbitration by Secretary of Labor or President and NLRC is limited to specified/defined situations  Basic policy: social justice	Philippine Civil Code (1950) on property rights applies to management function or prerogative  Basic policy: laissez faire

Source: Sale (2011)

According to Sale (2011):

“Public policy divergence or fragmentation occurred in 1936: property rights under civil law (the basis of management function or prerogative) remained laissez faire, while labor relations law under common law shifted to compulsory arbitration (from laissez faire) with social justice as the aim. Thereafter, labor relations law shifted from compulsory arbitration to freedom of association and collective bargaining, then to a combination of the two, and finally to the present system (still of common law origin and tied to social justice), where the combination remains but voluntary modes in settling labor disputes are enhanced and preferred.

The divergence or fragmentation has resulted in system incoherence or inconsistency, i.e., trade union density and CBA coverage are low and the number

of compulsory arbitration cases is very high, even while labor regulations are seemingly abundant. Enterprises/employers assert property rights and managerial prerogatives (based on civil law and laissez faire) when deciding to reduce costs and compete in open (thereby larger, combining) markets. The processes and phenomena of globalization and flexibility give impetus, and are thus connected, to the exercise of property rights and managerial prerogatives. And as explained, globalization and flexibility are related to the high unemployment/ underemployment rates and poverty incidence, large informal sector/economy and preponderance of small enterprises in the Philippines, which in turn have influenced low trade union membership and CBA coverage. The use of compulsory arbitration is very high because this mode has been resorted to by unorganized workers and establishments.”<sup>55</sup>

While collaborative governance seems apt for the Philippines given that Asian societies have “associative or collectivistic cultures,” and considering the existence of unions, collective bargaining and LMCs (though the numbers are significantly declining), and workers’ associations, there is strong empirical evidence of competitive governance.

This is based on the finding that *lower* average and minimum wages, labor productivity, union membership, CBA coverage, and compliance rates on minimum wages and general labor standards *converge* with *an abundance* of small enterprises and *higher* underemployment, poverty incidence and consumer price index outside the NCR.

This is also supported by the result that CBA coverage, preventive mediation, LMC coverage, VA and med-arbitration cases, and workers involved in strike/lockout notices are *significantly and positively correlated*. Normally, workers that are unionized and covered by CBAs (their number is decreasing over time) use these conflict handling modes. In contrast, a *significant negative correlation* exists between other cases handled by DoLE Regional Offices (money claims not exceeding P5000) and workers covered by CBAs. Similarly, compulsory arbitration cases are *inversely correlated* to union membership at a *significant level*.

These signify the need for reforms in public policy.

Public policy must encourage big enterprises to invest in the countryside. Public policy should also encourage unions to organize small enterprises or workplaces with less than 10 workers, so that they may be covered eventually by CBAs (since such workplaces may seek exemption from the applicability of minimum wages). In this regard, public policy ought to relax the requisites for union organizing and registration especially for workplaces with less than 10 workers. For instance, the Labor Code requirement that the membership of a registering independent union must comprise at least 20% of all employees in the bargaining unit where it seeks to operate

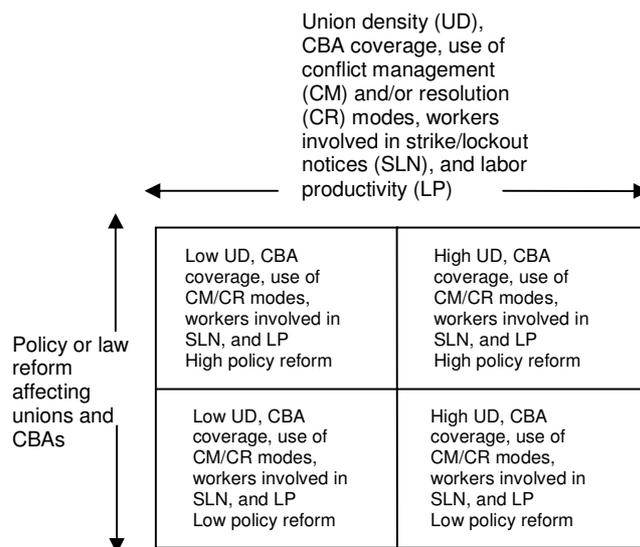
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<sup>55</sup> *Id.*, at 153-154.

should be removed. In time, because of the relationship among small and big enterprises, CBA coverage and labor productivity, such policy reforms may lead to the enhancement of labor productivity in the countryside (outside the NCR) which could also raise wages (minimum and average) and reduce unemployment and underemployment. Such policy reforms may result in greater trade union density and CBA coverage, as well as higher utilization of the voluntary and compulsory conflict management mechanisms in Figure 2, or collaborative governance. Improved labor productivity, higher trade union density, CBA coverage and wages, with reduced unemployment and underemployment, could be among the common elements of a new business model in the countryside owing to collaborative governance. These would raise the floor for rights at work.

The following analytical construct illustrates the relationship between public policy reforms and labor market governance.

Figure 17 – Policy reform construct<sup>56</sup>



Where:  
**X axis** - UD, CBA coverage, use  
 of CM/CR modes, workers  
 involved in SLN, and LP  
**Y axis** – Policy reform

Source: Sale (2011).

Thus, reforms in public policy may translate to **high** union density, CBA coverage, use of conflict management modes, workers’ involvement in strike/lockout notices, and labor productivity.

<sup>56</sup> *Id.*, at 179.

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