

philippine studies

Ateneo de Manila University • Loyola Heights, Quezon City • 1108 Philippines

Judging A Strike in the Philippines Today

G. W. Healy

Philippine Studies vol. 2, no. 3 (1954): 231–252

Copyright © Ateneo de Manila University

Philippine Studies is published by the Ateneo de Manila University. Contents may not be copied or sent via email or other means to multiple sites and posted to a listserv without the copyright holder's written permission. Users may download and print articles for individual, noncommercial use only. However, unless prior permission has been obtained, you may not download an entire issue of a journal, or download multiple copies of articles.

Please contact the publisher for any further use of this work at philstudies@admu.edu.ph.

<http://www.philippinestudies.net>

Judging a Strike in the Philippines Today

G. W. HEALY

A strike is an organized cessation from work on the part of a body of men with the object of forcing the employers to assent to the demands of the workmen. It has been rightly said that strikes are to collective bargaining what quarrels are to married life. They can clear the air and bring about a new and better understanding. Or they may create lasting bitterness, smoldering beneath a surface truce. Finally they can cause a complete break in relationships between the affected parties. Furthermore, like quarrels between spouses, they often cause serious suffering to innocent third parties. This "innocent third party" is the one who is most likely to jump to a conclusion in judging the morality of a strike. When we find ourselves without a train or a bus on a day when we planned a very important trip, being human, we are likely without any further investigation to condemn the strikers who caused us the inconvenience or loss. And when the papers play up the hundreds or thousands of citizens who suffered this or a similar inconvenience the workers and the union find themselves at a serious disadvantage, "public enemies" interfering with the welfare of the community for some private personal good, condemned out of hand. But a little reflection should make us realize that a striker has a right to his day in court;

there is always another side to the story and we can not judge a strike until we have heard both sides. Like the quarreling spouses we may find that there is place for admission of some guilt on both sides and need for a compromise rather than a simple condemnation or approval.

RIGHT TO STRIKE

Some may even question the worker's right to strike. Today, however, informed opinion usually concedes that right. When working conditions are inhuman or unreasonable no man is obliged to continue to work. Someone may object that if he is not satisfied with the conditions he can always quit the job rather than remain there and go on strike. But this is unreal thinking. The man needs his job and he wants it. The only objection that he usually has is to the conditions under which he labors. When a strike is the only means to rectify that situation, then, granted that certain conditions are fulfilled, he has a right to strike. To deny him that right is to take away the only means to an end to which he has a right; it is to concede that he has rights and then to frustrate him in obtaining those rights. Such a position is untenable.

Today in the Philippines in the new Labor Law of 1953 the worker's right to strike is implicitly acknowledged in at least two places. In Section 11 the Labor Law states that Government workers "shall not strike for the purpose of securing changes or modification in their terms and conditions of employment." (A proviso of this section states that it applies only to those employed in governmental functions and not to those employed in proprietary functions of the Government including but not limited to governmental corporations.) This negation of the right to strike for Government workers is admitted to be an implicit acknowledgment of the right of other workers to strike. Another provision of the new Labor Law which is an implied admission of the right to strike is the limitation of the power of the Court of Industrial Relations to issue a restraining order forbidding the employees to

strike with the exception of a strike in an industry vital to national interest and certified to the Court by the President himself (Section 10 of the new Law). Even the previous law, the Court of Industrial Relations Act, recognized the right to strike.

No one likes a strike. No one believes that a strike in itself is something desirable or a good thing for the worker. A strike is a form of war—industrial war. Just as everyone desires peace among nations so we all desire peace between labor and capital in the industrial world. But we do not approve of peace at any price whether in the world of politics or the world of industry. Peace must be built on justice and charity. When a nation is being slowly strangled to death by another nation, the law of self-preservation may demand that it go to war to defend itself, if there be no other means available. So when the workman finds his fundamental rights being violated he may find that there is no other means to bring his employer to acknowledge and respect his rights except to have recourse to a strike, with all the hardships that it involves for the worker, for the employer, and, usually, for the general public.

While always anxious for peace on the labor front, still we can not take an *a priori* position on the morality of any particular strike. The strike may be justified or it may be completely unjustified. There is only one way to find out and that is to ascertain all the facts in the particular case and weigh those facts in the light of approved moral principles—no easy task in most cases! Nevertheless this is what we must do if we are consulted about a strike that is already existing or about one that is being planned.

The man who would judge the morality of a strike in the Philippines today will often find himself in a difficult position. Some strikes, it is true, will have so much justice on one side and so much injustice on the other, that their morality will be easily discernible. But usually the situation is quite complex and the charges and countercharges of labor and management with the overtones

of suspicion and anger generated in the charged atmosphere of a strike will leave the impartial observer rather bewildered.

DIFFICULTY OF JUDGING A STRIKE

These difficulties are present, of course, in judging strikes in any place in the world. But in the Philippines today we find factors which offer particular difficulties. The efforts at industrialization, which economists say is necessary for the survival of the nation, put the capitalists somewhat in the position of public benefactors with whom all should cooperate for the common good. The steady increase in population, the increasing flight from the land to the cities, the alarming number of unemployed, all serve to give the capitalists a strong position when it comes to hiring or firing. The same factors serve to keep the worker subservient, afraid to stand up for his full rights for fear of losing the little that he has. The high cost of living in the cities, the housing shortage, the inadequacy of public welfare or relief services, the ever-present spectre of hunger and unemployment indicate an explosive situation on which, by the way, the Communists are only too anxious to capitalize. In addition we must consider the exceptionally high standard of living enjoyed by the wealthy few and the frequent disregard of the new labor laws which are meant to prevent at least the more serious abuses of the working man's rights. Then, the usual amount of distrust of bureaucratic processes, a fear of red-tape, suspicion of vested interests, of unions organized by communists or communist sympathizers, the problem of rival unions, the problem of inter-union struggles for power, of the "union-busting" tactics of some employers—these add their share to the complexity of the picture in the Philippines today. The relatively large number of foreign capitalists and employers presents a special problem in the light of the awakened nationalism that is so much a part of the current Philippine scene. It frequently helps to explain the outbreak of violence on a picket line. It sometimes obscures all other issues

involved in the strike. It is only too obviously choice grist made to order for the Communist mill.

Granted that a man has a fair grasp of this social climate in the Philippines, how will he judge the liceity of a particular strike? The judge must bring to his task (1) an appreciation of the dignity and rights of the working man, and (2) an appreciation of industrial relations.

Without an appreciation of the dignity and rights of the worker the judge is automatically precluded from giving a just decision. If the worker is considered as so much chattel, as a means to an end, as merely a necessary evil in the production of a finished product, then naturally he will get little or no consideration when he goes on strike. If he has no rights, he should not be standing up for those rights and interfering with the rights of his employer. But if he is held to be a human being made in the image and likeness of God, endowed by his Creator with certain inalienable rights, including the right to raise a family decently with a certain minimum security for himself and his children, then we can believe that he might have justice on his side when he goes on strike. At least his case will not be judged *a priori*. We take it for granted that there must be equal respect for the rights of the employer. His financial power usually guarantees this respect.

Without an appreciation of industrial relations one who would judge a strike may not realize the importance and far-reaching effects of certain disputed technicalities. Grievance-machinery, regulation of discharge, and seniority provisions, for example, were once considered the exclusive prerogative of management. Today the unions are very much concerned with these questions. More recently the unions have concerned themselves with the speed of the assembly lines, the use of materials considered harmful, and even the prices and profits of the firm. A man who would judge a strike must be aware of, and be able to judge, these current trends in industrial relations and must be able to decide whether management is justified in resisting such invasions of its time-honored spheres

of authority. The question of the right to a closed shop is another example of a disputed point that demands special study before we can judge a strike by workers demanding a closed shop. As one authority puts it: "It would be extremely unwise to build a fence around the rights and responsibilities of management on the one hand and the unions on the other. The experience of many years shows that with the growth of mutual understanding the responsibilities of one of the parties today may well become the joint responsibility of both parties tomorrow."

These few examples give some idea of the breadth of vision that we expect in one who would presume to draw the line between a moral and an immoral strike. It is often a ticklish task and not everyone is competent. The press should take this into account in assigning reporters to cover a strike or in writing its editorials.

Supposing this background and vision, a man should approach a strike without bias and apply to it the principles worked out by moralists and ethicists for judging its liceity or illicity. It is commonly agreed that five conditions must be fulfilled before we can say that a strike is justified. We will enumerate these conditions and then discuss them one by one with reference to the situation in the Philippines today.

The five conditions which must be fulfilled before a strike can be justified are: 1) The strike must be for a just cause. 2) The good that will come to the striker must outweigh the evil effects which will come to the community. 3) All other means must have been tried and failed. 4) There must be a reasonable chance of success. 5) In the strike itself, only just means must be used.

JUST CAUSE

The first condition: The strike must be for a just cause. In theory few will argue with this condition but in practice it is not always easy to apply. In the Philippines today the most common cause for striking is a demand for higher wages, for a bigger piece of the "pie".

As far as the minimum wage goes the worker has the law on his side. But the gulf between the minimum wage and the living family wage must be bridged by the worker almost without the aid of the law. In fact the government practice of paying many of its workers the legal minimum will be used as an argument by others for keeping the worker's salary down to the minimum. But the argument for the family living wage transcends courts and judges and governments; it is a dictate of nature itself and must be honored if we are to have a healthy society.

LIVING WAGE

When the normal worker's salary is far below the cost of a decent living for himself and his family, then the cost of living must be brought down or the basic salary must go up. Justice demands that the ordinary worker receive a family living wage. Social Justice, that virtue which commands us all to work for the common good, demands that, when the wage is not being paid, changes be introduced in society to make that wage available. Society can be no healthier than the families that compose it. If the majority of the families, the families of the mass of workers, lack the ordinary necessities of life, every branch of society will be infected and ailing. Unfortunately, in the Philippines today the ordinary worker, it must be admitted, usually lacks the necessities of life, lacks security, and the whole of society suffers as a consequence. So the ordinary worker, theoretically at least, has a just cause, the first condition for a just strike.

The importance of the family living wage cannot be over emphasized. It is a dictate of the natural law inasmuch as the father is bound by nature to support his wife and family in a way commensurate with human dignity, and for the ordinary worker there is nothing else to give in exchange for this support except his labor. He is not free to sell his labor at any price: nature tells him that he must sell it for a salary that will fulfill his obligations to his family. He feels this dictate of nature keenly and

when he is forced by necessity to sell his labor for less, he is unhappy and discontented and feels that he is being robbed. To right this wrong he will resort even to violence. If society is indifferent to his plight, he can easily be led to turn against that society. His common sense tells him that things should be different, that the inequalities in society should be lessened. When society becomes indifferent to such fundamental claims as the family living wage, it is fostering revolt and revolution. Nature will not be frustrated. If the worker is organized and dares to strike, he will feel that his cause is just.

The economic corollary of low salaries is obvious. The industrialization of a nation and the mass production of goods are built on the supposition that there will be a mass consumer market. When the ordinary worker is not making enough to buy the ordinary necessities of life, there is no mass market: the industrialist who refuses to pay higher wages has cut his own market out from under himself.

The current estimate of the number of unemployed is slightly over 2,000,000. This is 22.3% of the estimated total working force of the nation. Add to this those who are not listed on any Bureau of Labor roll, those who are underemployed or employed only through charity, and you have some idea of the seriousness of the struggle for existence in this young Republic, the "showcase of democracy" in Asia, one of the last bastions of the Free World in its Asian fight against Communism. Some will take this very weakness of the economy of the nation and use it as an argument for not paying their employees a decent salary. They argue that in a healthy society the living family wage should be paid but in a society that is economically sick they are excused and may pay "the going wage." The sick can never be cured by undernourishment; an ailing economy can never be made healthy by paying the worker a salary below the subsistence level. The worker's right to a living wage is in possession as a dictate of nature. The employer must show that he cannot pay that wage and on him rests the whole burden of

the proof. When he cannot pay it, his course is clear. He must study his business to see why he cannot pay it and if necessary reorganize his business so that he can pay it. If his study shows that no reorganization would enable him to pay it, then he is excused temporarily, but social justice demands that he work for the reorganization of society to bring about the changes that are necessary to remedy such a serious evil.

A recent realistic approach to this problem of a living wage ended a strike and set a pattern which others have already followed. A group of workers petitioned for a higher basic salary. The management refused their request and they went on strike. In the course of negotiations to end the strike the workers submitted to the company an itemized budget, showing management how the ordinary worker would spend this basic salary. In theory the salary sounded a bit on the princely side for an ordinary worker; in practice the itemized budget showed that he would have to skimp and save to maintain any kind of a livelihood that might be called human. It was remarkable that this budget made no provision for furniture for the house, e.g., no chairs, no linen, no silverware. There was no provision for the high school education of the children, no allowance for the primary education of the third child. There was no question of a radio, a watch, much less a car, or any travel. There was no provision for even a Christmas celebration or a birthday party. On that budget it was impossible to buy newspapers, magazines, or books. There was no mention of funeral expenses. There was no possibility of savings. One serious sickness would have thrown the whole budget off for months and caused serious hardships. One ironic note was that these were employees of an insurance company and there was no possibility of their buying insurance even if their demands were granted. The fact that so many things were beyond the reach of this ordinary worker even when he was granted this extraordinary increase in salary is an eloquent indictment of the standard of living of the normal worker in the Philippines today.

In the face of this budget the management agreed to the claims of the worker. They had always been able to pay the higher wage but they needed to be convinced that the worker deserved or needed it! Another executive saw a copy of this budget and immediately, without any solicitation on the part of the workers, began a study of his finances to see if he could raise his salaries to a more realistic level. This may indicate that the social gulf between the employer and the worker makes the employer completely unaware of the real difficulties of his workers. When their needs are brought home to him in some realistic way, he is more apt to give them a sympathetic hearing, to believe that they were justified in striking.

We presume that the reader realizes that our concept of a family living wage means a real "take-home" salary. We take it for granted that a salary paid on paper but reduced by "kick-backs" and refined forms of extortion must be estimated at its true value, *scil.*, what the worker actually takes home for himself and his family.

Despite the advances that have been made in winning for the worker a better standard of living, there is still so much oppression and injustice that it seems safe to predict that strikes will be a part of the labor scene in the Philippine industrial world for a long time to come. Many of the employers are of the *laissez-faire* school, the 19th Century school of economics. They will not learn the lesson of the times. They will give their worker a decent salary only when they have been forced to it. This means strikes and more strikes unfortunately, and in judging them usually an impartial observer will admit that the worker has fulfilled the first condition for a licit strike: he has a just cause.

RIGHT TO ORGANIZE

In the Philippines today another basic cause for strikes is the denial of the workers' right to form unions, and to deal with their employers through their unions. When Leo XIII spoke out for the right of the worker to organize, at the turn of the last century, he was a pioneer

taking a courageous step. In his day, all too often, labor unions were considered, in law or in fact, to be nothing but organized criminal conspiracies. Today most democratic countries accept the labor union as a legitimate part of industrial society. In the Philippines, until 1953, the right to form a union was so circumscribed by law that the worker was at the mercy of the vested interests. The new law, hailed as the Magna Charta of Labor, effective in 1953, is not everything the worker wants or should have but it is a vast improvement over the previous legislation. With some reservations, we can say that the legal position of the worker's right to form a union is fundamentally sound. If he goes on strike to have this right honored, his cause must be judged a worthy one and the law will support his claim. But as one pro-labor writer has noted: "We will not say that the 'Magna Charta' has won the battle of freeing the workers from the abuse of union-busting employers but it could very well be on the way to winning the battle if the labor law were enforced to the letter."

The very fact that strikes are still being used to force employers to recognize and deal with a union shows the 19th Century mentality which is guiding so many of the capitalists in the Philippines today. In other countries unions are accepted and the debate is advanced to a further question: Does every worker have an obligation to join a union in order that he may make that contribution to organized society which social justice demands from each member of society? Today in the Philippines vast numbers of workers are unorganized and know that the mere rumor of union activity would cost them their job. Faced with unemployment and hunger the worker allows his union rights to go by the board. The employers know that without a union they can handle workers as individuals, hire or fire them arbitrarily, and deduct from their wages for the most trivial reason without fear of reprisal.

Some employers have tried to fulfill the letter of the law while keeping their control over the worker by setting

up "company unions." These, of course, are only caricatures of a union, protecting and granting no rights to the workingman. The officials of such unions are mere agents of the employer and have no real authority to represent the worker.

Most employers would probably say that if they allowed a real union to be formed in their company there would immediately be a strike. This is usually a tacit admission that the workers have a reason for striking—usually for a decent salary, and if they were free and organized, they would demand their rights and go on strike, if necessary, to have their rights honored. But in all fairness to the employers we must admit that sometimes the unions are unprincipled and resort to strikes without just cause. Yet a sympathetic analysis of the background of the social picture in the Philippines will help us to understand this defect on the part of the unions. Take a worker who has lived close to the mere subsistence level most of his life, deprived of necessities often, of luxuries most of the time, uneducated because of his poverty, afraid of the powers-that-be because of his lack of security, awed by red tape and legal procedure, treated as an inferior by his employer,—take such a worker, then suddenly place him in a union, the first organization perhaps that he has ever belonged to, in the power of an unscrupulous labor leader who has fought his way up from the ranks, and we should not be surprised if some of his union demands or actuations do not measure up to our accepted standard of morality. But that is only a by-product of the lawless society in which he was forced to live, where the only rules were those that fitted the policy of the economic masters. Now if the workers start to make their own rules and we find them as lawless or unjust as those under which they have lived their economic lives, we should not be surprised. But we cannot condemn unionism because of the immorality or injustice of a handful of members or leaders any more than we do away with elections because of certain election frauds.

In the transitional stage of nascent industrialism there

are bound to be mistakes on the sides of both labor and management. But we cannot turn back the clock. With the passing into law of the "Magna Charta" of labor in 1953, a milestone was passed and there is no going back. Employers have to face the fact that unionism is here to stay and there is no longer any sense in fighting it. Workers have a natural right to organize to protect themselves in a highly organized society where the individual counts for almost nothing and is helpless if he fights alone. When the employer begins to face the realities of modern life, "union-busting" tactics will cease.

To strike for a living wage or the right to form a union is to strike for something to which the worker has a strict right in justice. But there are other rights which are not a matter of strict justice but are a matter of equity which could be a just cause for a strike. Between the minimum due in strict justice and the maximum which is clearly unjust, there is a wide range. Social justice, that virtue which looks to the common good, may sanction a strike for an equitable claim. An increase in salary beyond the strict minimum of justice may be indicated in equity when a business is prospering. Other items often found in union contracts are more in the nature of claims than rights, e.g., paid vacations and holidays. They raise the standard of living of the worker and may legitimately be sought when the condition of business permits. Pensions and medical insurance would fall into the same category. The employer might refuse such claims without doing wrong. The controlling principle on which we would have to judge such a claim would be social justice looking to the common good, rather than commutative justice which governs strict rights. It would be more difficult to justify a strike for a right in equity or for a mere claim; we would have to examine each case carefully in the light of the common good before we could make a judgment.

UNJUST STRIKES

We have considered just causes; now we should say

something about unjust causes for a strike. A demand for an increase in salaries at a time when the company could not afford it would be unjust and unreasonable. A strike because of some slight insult, real or imaginary, or a strike for merely political reasons, or a strike because of rival union claims wherein the employer is an innocent third party, or a sympathy strike when the sympathy strikers have no grievance against their employer but go on strike merely out of sympathy for the cause of labor in general,—all of these would fail to fulfill the first condition and so would be judged as unjust strikes. The Supreme Court in the Philippines in recent years ruled that the worker had no right to a coffee-time interruption of work in the morning. The employer might grant it for the sake of better relations and perhaps better and more work in the long run, but there was no obligation on his part to make this concession. A strike for such a benefit would be illicit. In the language of the Courts of the Philippines, a strike for a "trivial, unjust and unreasonable purpose is illegal." A strike will also be judged to be illegal as to purpose when it is contrary to a contract freely entered into by collective bargaining. The sanctity of contracts would demand this as long as there is some grievance machinery set up and freely entered into by both parties to handle unforeseeable hardships and difficulties that may arise.

GOOD SHOULD OUTWEIGH EVIL

The second condition for a just strike: The good that will come to the worker must outweigh the evil effects which will come to the community. This will depend very much on the type of work of the men planning to go on strike. Some industries and occupations are of such a nature that the common good will not tolerate a strike. If for example, all the policemen were to go on strike for even one day, if the army were to go on strike, if a modern city were left without any electric power, the harm to the common good would be far greater than the

good which the worker might obtain by striking. But there are certain public industries or occupations where the public interest would suffer but still there would be no disaster but only grave inconvenience, provided the strike were not prolonged unnecessarily. In such industries or occupations, if the other conditions were fulfilled, a limited strike could be justified. A limited strike in electric power production or cable or telephone service, or in major industries vital for defense would be examples of this type of strike.

The fact that workers in certain categories are not allowed to strike does not mean that their claims can be ignored. Other ways and means must be devised to settle their differences and claims with justice to both parties. Nor does it follow that all public workers, e.g. school teachers, are forbidden to go on strike. Many public servants are not performing emergency duties and they often have no other way of bringing their plight to the attention of the public and proper authorities except to go on strike. A public worker is an individual first and foremost and his basic rights must be respected. He does not exist for the state but the state exists for him. Any law that would attempt to deprive him of the right to strike would be unjust unless it provided an effective alternative means for honoring his claims in right or in equity. A public office should be a benefit to the individual as well as to the public. The worker cannot be penalized merely because he holds a public office.

ONLY REMEDY LEFT

The third condition for a strike: All other means must have been first tried to settle the difficulty. The other normal means are negotiation, conciliation, and arbitration. Negotiation will take place between the union and management. Claims and counterclaims will be submitted and discussed by the due representatives of labor and management. There must be an attitude of give-and-take. For either of the parties to enter into nego-

tiation with the attitude of a man laying down an ultimatum would be to foredoom it to failure. It is in negotiation that the philosophy of life of the respective parties will make itself most felt. If the employer cannot tolerate his workers demanding that their rights be respected, if his paternalistic approach to labor classifies all his workers as children who are to obey him unquestioningly, then negotiation will have little chance of success. This is, unfortunately, still a common problem in collective bargaining in the Philippines today. There have even been cases where the employer entered into negotiation only to find out which of his employees were engaged in union activity so that he could dismiss them and crush the union. Such bad faith on the part of the employer is obviously a violation of a fundamental right.

If negotiation breaks down the next step is conciliation. The duty of the conciliator is not to decide the matter in dispute. His duty is to pacify, to clarify the disputed matters. He asks questions and may even ask for the company balance sheet to see if it is able to meet the demands of the worker. The conciliator proposes no solution. Both labor and management are bound in justice to avail themselves of a conciliator unless there is evidence that conciliation is being invoked only to waste time or weaken a party's bargaining position. The conciliator has the advantage of being a disinterested third party who can look at things more objectively. In the Philippines the Department of Labor has a Conciliation Service. It cannot force any decision, but the employer and the union must at least attempt to settle their differences through the intervention of this body before they will be allowed to have recourse to a lock-out or a strike.

If conciliation fails there still remains the possibility of averting a strike by having recourse to arbitration. Under the 1953 Labor Law the Court of Industrial Relations no longer has the power of compelling arbitration, except in those rare cases of a labor dispute occurring in an industry deemed by the President as indispensable to the national interest and certified by him to the Court,

which is then empowered, where no other solution to the dispute is found, to issue an order fixing the terms and conditions of employment. The parties may avail themselves of the Court of Industrial Relations as an agency for voluntary arbitration, if they wish. This is purely voluntary and the members of the Court act in a private capacity in which their experience is made available but they have no power to force an issue.

Both labor and capital are usually strongly opposed to allowing an arbitrator to settle the terms of the contract. Experience shows that an outside party is usually not competent to make a contract that will suit both parties. The War Labor Board decisions in the United States were often unsatisfactory to both sides. Both sides claimed that they were denied just claims and awarded demands that were put in merely for the sake of padding, to allow some room for negotiation and compromise.

When it comes to interpreting disputed points of a contract already entered into by collective bargaining, arbitration is more easily acceptable. Actually today most modern agreements do have an arbitration clause. Many industries have permanent arbitrators who handle contract disputes as well as grievances. Training in industrial relations is essential for the success of such arbitrators.

In the Philippines, before 1953, compulsory arbitration by the Court of Industrial Relations was the rule. The very existence of this power was detrimental to collective bargaining. Coupled with the power to issue injunctions and order workers back to work, it gave the government too much control over industry and labor. The inevitable political back-stage operations made the unions helpless and the process of demanding better wages and working conditions and going on strike, if all other means failed, became, as one Senator remarked, "a comic opera." Against the company union, a ruthless management, the Secretary of Labor's power of cancelling union permits, and the powers of the Court of Industrial Relations, a strike staged by a legitimate labor organization could not prosper.

All of that came to an end on May 5th, 1953 with the passage of the new Labor Law. Obviously, the liberation of the worker from this form of legal slavery such a short time ago does not mean that he immediately began to enjoy all his rights as a first-class citizen. Making the worker aware of his rights, giving him legal counsel and guidance, and giving him the encouragement to stand up for those rights—all this takes time. Many employers are still taking advantage of the time lag between the passage of the bill and the seeping down of its effects to the ordinary laborer. This attitude of the employer and the former disadvantages of the worker before the law of his own land are vital elements that must be appreciated before we can understand the background of current industrial relations in the Philippines.

Since all these means are available, negotiation, conciliation, arbitration, is it possible for workers in good faith to say that they have tried them all and now, since they have failed, that they are justified in going on strike? Yes, for good faith on the part of the worker is not always matched by good faith on the part of the employer. Also we must note that many of the disputed points may have been settled and the new contract may be more than substantially agreed upon during the various periods of negotiation, conciliation or arbitration. Yet some points may still remain unsettled and they may constitute a just cause for recurring to the extreme and costly step of going on strike.

GOOD HOPE OF SUCCESS

The fourth condition for a strike: There must be a reasonable chance of success. This condition weighs heavily on the conscience of the union leaders. A strike is a great internal strain upon a union. Many a union has been broken by a strike. If the strike is untimely or alienates the public or is not properly handled, it will most likely fail. With failure of the strike the worker may lose his job or seniority privileges besides the certain loss of salary during the time he is on strike. In the

Philippines where there is so much marginal subsistence and so many people depending on one man's job, these considerations are paramount and a strike that fails is a serious setback to unionism. It is a very difficult judgment to make and only those experienced in industrial relations can judge with any accuracy as to whether or not this fourth condition has been fulfilled. No generalizations can be made. Each case must be handled separately and we cannot expect any strict certitude in this matter. Moral certitude is the most that we can hope for, and intangibles and unforeseen developments may negative the most careful calculations. If ever caution and prudence were needed, it is in judging the fulfillment of this fourth condition.

JUST MEANS

The fifth and last condition for a just strike is that the means used in the strike must be just. Violence on the picket line is a favorite subject for newspaper photographers. We are unconsciously often led to condemn the strikers out of hand, asking no more evidence for their guilt than the picture we see in the paper. Perhaps the incidents that preceded the outbreak of violence, or the fact that the incident was an isolated one in an otherwise peaceful picket line, or the union discipline that may have been taken against the one resorting to violence, or other factors would change our judgment if they were also properly presented by the newspapers.

In waging a strike there must be a fundamental regard for the right of private property. Sabotage or other destruction of the property of the employer cannot be condoned or approved. It would be a bad means to a good end. But if violence is necessary as legitimate self-defense against agitators hired by the employer, then the worker is within his rights in resorting to violence, but only in so far as it is necessary to offset the attacks made against him.

In Philippine Law the tests for the validity of a strike are two: the justice of the cause and the legality of the

means. If the workers do not resort to acts or omissions which amount either to a crime or a tort, then they do not go beyond the permissible and legal means. In one case the illegality of the strike was predicated not solely on the infringement of the collective bargaining agreement by the union, "but on the proven fact that, in carrying out the strike, coercion, force, intimidation, violence with physical injuries, sabotage and the use of unnecessary and obscene language or epithets were committed by the top officials and members of the union in an attempt to prevent the other willing laborers to go to work."

The sit-down strikes of the 1930's were condemned as a violation of property rights. Chief Justice Hughes declared a sit-down strike illegal because it was "an illegal seizure of the buildings in order to prevent their use by the employer in a lawful manner and thus by acts of force and violence to compel the employer to submit." Labor cannot strive to right a wrong by disregarding law and order. As the Supreme Court of the Philippines observed, such a labor philosophy is "an unfortunate philosophy of regression whose sole consequences can be disorder, class hatred and intolerance." The means used in the strike must always be submitted to the approved canons of morality.

PICKETING

Picketing is the marching to and fro before the premises of an establishment involved in a dispute, generally accompanied by the carrying and display of a sign, placard or banner bearing statements in connection with the dispute. The Supreme Court of the Philippines on October 13, 1947 followed the Supreme Court of the United States in including picketing as a part of the freedom of speech guaranteed by the Constitution. "In the circumstances of our times the dissemination of information concerning the facts of a labor dispute must be regarded as within that area of free discussion that is guaranteed by the Constitution." "The health of the present generation

and of those as yet unborn may depend on these matters, and the practices in a single factory may have economic repercussions upon a whole region and affect widespread systems of marketing . . . Labor relations are not matters of mere local or private concern. Free discussion concerning the conditions in industry and the causes of the labor disputes appears to us indispensable to the effective and intelligent use of the processes of popular government to shape the destiny of modern industrial society." (*Thornhill v. Alabama.*) Both Supreme Courts have made it clear that only peaceful picketing is embraced in the freedom of speech guaranteed by the Constitution.

In the Philippines an indication of the disadvantage under which the worker operates is found in the fact that a Senator, known for his interest in labor, felt it necessary to introduce a special bill for the protection of peaceful picketing. The interference with picket lines by police officers sometimes gives labor leaders good reason to suspect that they have been bribed to do so. The fact that seventeen women were recently mauled on the picket line in the suburbs of Manila shows that the Senator's proposed bill is a necessity in the present stage of industrialism.

BOYCOTT

Another means which labor may use to bring pressure upon management is the boycott. It has been defined as an organized refusal to deal with someone in order to make him change some practice which he follows. When only those immediately concerned are urged to refuse to deal with the employer, we have a primary boycott. When an effort is made to induce third parties to cease their patronage, we have a secondary boycott. Philippine Law allows the primary boycott but leaves the question of the secondary boycott an open one. There is no statutory provision or authoritative decision covering this matter. The moralists would say that even the secondary boycott would be just if all the other conditions for a just strike had been fulfilled and it were carried out without violence

or harm to any person, especially if the employer were trying to keep his plant operating by using strike-breakers. It would then be an effort to get other people to avoid cooperating with an unjust action by buying products made under unethical conditions. This would be a licit action on the part of the striking employees.

When all these conditions have been fulfilled, then, and only then, can we say that a strike is just. There must be a just cause with the good that is hoped for outweighing the evil that will come from the strike. There must be a reasonable chance of success and the strike must be carried out with only just means. We have seen that a knowledge of the rights that go with the human dignity and responsibilities of the laborer and a knowledge of industrial relations are necessary before anyone should set himself up as a judge of a strike. A knowledge of the social background of the industrial worker in the Philippines will give us the wisdom and sympathy needed to interpret his claims and to understand his actions.

No one wants a strike, as we said before, but when all the foregoing conditions are fulfilled and the worker takes his place on the picket line in a just strike, we should have somewhat the same respect for him as we would have for a soldier in uniform in time of war. The striker is fighting for himself and his home and his family. There is no cause closer to the heart of the worker. If the worker would not fight for such a cause, then we should have reason to worry, for it would be a sad commentary on the spirit of the people. But when the worker is free to stand up for his rights to protect the family, the basic unit of society, then we can believe that the nation is composed not of serfs and slaves but of men who are really free with the freedom that befits the dignity stamped upon them when they were made to the image of God.
