ASSESSMENT OF THE LABOR DISPUTE RESOLUTION SYSTEM

PHILIPPINES

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1. INTRODUCTION

1.1. Background and objective

This assessment seeks to identify ways to enhance and modernize the labor dispute resolution (LDR) system of the Philippines in line with the country's development goals.

A "labor dispute" is any controversy or matter concerning terms and conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.[1] The substantive aspect of labor disputes is governed by the Labor Code and other related laws. The presence of an employer-employee relationship is the essential condition for a labor dispute to exist.

The LDR system refers to the totality of policies, laws, institutions, rules of procedure and programs related to the prevention, settlement and resolution of labor disputes. The country's prevailing LDR system has three layers. The first is bipartite, in which workers and employers including their organizations, by themselves, have the shared responsibility of regulating the terms and conditions of employment and preventing or settling disputes preferably through collective bargaining. The second is administrative, whereby State administrative agencies step in to settle or resolve disputes in instances where parties are unable to do so by themselves. The third is the judicial layer, where final decisions, orders or resolutions of administrative agencies may be reviewed by the courts in the exercise of its judicial power. This assessment focuses on the administrative layer.

1.2. Development context

The national development framework is expressed in two key documents – the medium-term 2017-2022 Philippine Development Plan, and the long-term *Ambisyon Natin* 2040. These are based on the development goals expressed in the 1987 Constitution, and on the UN Sustainable Development Goals (SDGs) or Agenda 2030. They contain broad strategies on employment creation, rule of law, governance and justice. In relation to labor justice, the 2020-2024 Philippines Decent Work Country Programme (DWCP)[2] provides guideposts concerning the LDR system. The DWCP notes that the country's labor institutions are comprehensive and well-developed. But given the accelerated pace of transformations in the world of work, there remains the need to improve implementation of laws and to modernize the policy design and instruments of labor market governance in order to help ensure effective and inclusive protection to all workers. [3]

Priority 2 of the DWCP supports the national goals, among others, of pursuing swift and fair administration of justice and improving labor market governance which ensure respect for all fundamental principles and rights at work, international labor standards and human rights.[3]

Two strategic outcomes under Priority 2 provide the development context directly related to labor justice and LDR:

- Outcome 2: Improved capacity of labor administration authorities with support of the social partners to implement and enforce core labor standards and all general

[1] Labor Code of the Philippines (LCP), Presidential Decree No. 442 (1974), as amended, Art. 219 [l]).
[2] ILO, Decent Work Country Programme Philippines (DWCP) 2020-2024 (2020), https://www.ilo.org/wcmsp5/groups/public/---ed_mas/--program/documents/genericdocument/wcms_755642.pdf, pp.11-12.
[3] ___, p. 19.

labor standards (GLS), occupational safety and health standards (OSHS) and social and welfare legislations; and to eliminate all forms of unacceptable work.

- Outcome 3: Strengthened, modernized and balanced policy, legal and institutional frameworks on labor protection for all including migrant workers, workers in the informal economy and in non-standard or atypical employment arrangements.[4]

1.3. Statement of the problem

The Department of Labor and Employment (DOLE), as the recognized national authority in charge of labor, coordinates and monitors the performance of LDR agencies in the administrative layer of the system. Based on the administrative data provided by DOLE for this assessment, the performance of the system at least in the last five years has been generally satisfactory. In light of this, is there need or space to improve the system?

Toward achieving Outcomes 2 and 3 under Priority 2 of the DWCP, the key premises and characteristics of the current LDR system may be noted.

In terms of relevance, appropriateness and fit, the system was conceived to support early-stage industrialization, particularly the shift toward an export-led development strategy fueled by low-cost manufacturing. It also assumed the progressive formalization of work arrangements and a large and continuously expanding union and collective bargaining base. These assumptions are no longer present today.

In terms of its technical design and elements, the system is oriented toward clearly-defined employer-employee relationships. It excludes parties to ambiguous or other work relationships that have proliferated with the rise of technology applications and the gig economy. Further, existing procedures are rooted on face-to-face, paper-driven interactions and reception of evidence. The procedures and facilities need updating and upgrading to allow processes to be conducted with the use of information and communication technology (ICT) platforms.

In relation to rights at work, the DWCP notes that violations of labor standards and basic rights pertaining to minimum wages, working hours, security of tenure and protection against illegal termination of employment, categorization of employment, and use of contracting arrangements remain common. Further, the effectiveness of LDR mechanisms remain hampered by the high volume of cases, multiplicity or duplicity of mechanisms, complexity and litigiousness of procedures, and the need to continuously upgrade the administrative and technical capacity of officials to perform their functions. [5] The persistence of these issues was confirmed in the survey of stakeholders and key informants' discussions conducted as part of this assessment.

During the pandemic, the inflow of labor disputes into the LDR system noticeably decreased. But as the country recovers, caseloads of the system are expected to return to if not exceed pre-pandemic levels. The continuing effects of the fourth industrial revolution, impact of climate change, emergence of the gig economy, rise of new work arrangements particularly those enabled by technology platforms, and greater emphasis on occupational safety and health

[4] ___, p. 41. Outcome 1 under Priority 2 is as follows: Strengthened capacity of government and social partners to effectively participate in social dialogue and tripartite processes at the enterprise, industry, subnational and national levels toward better-informed, consensus-driven policies and decisions on social and economic matters directly affecting them.
[5] ___, pp 11-12.

standards and safe workplaces will in many ways also increase the threat of labor-management friction and conflicts.

With all indications pointing to the continuing decline of trade union and collective bargaining activities, the responsibility of regulating terms and conditions of employment and resolving disputes is expected to further tilt toward State institutions for LDR. Modernizing the LDR system by addressing persistent as well as future challenges is therefore a necessity.

1.4. Focus of the assessment

The focus of this assessment is the administrative layer of LDR, particularly that applicable to the private sector where LDR functions are primarily exercised by agencies under the executive branch of government, specifically by DOLE and its organic and attached agencies. To have a better appreciation of the full LDR cycle, the assessment will also touch on the role of the courts and the inter-relationship between the administrative and judicial layers.

The goal of any LDR system is to ensure industrial peace through the efficient and effective delivery and realization of labor justice. The system must settle or decide disputes promptly and ensure that settlements and decisions are faithfully implemented or enforced. Consistent with this goal, the main points of inquiry in this assessment are the accessibility, efficiency and effectiveness of the system. The assessment is divided into three main parts: 1) the policy and institutional framework; 2) performance of the system as a whole as well as of the agencies involved; and 3) observations and recommendations for consideration of administrative and legislative authorities and policymakers.

The assessment was undertaken in coordination with the DOLE, its attached agencies, and the tripartite partners who provided relevant administrative data, responded to a perception survey of stakeholders, and participated in forums as key informants.[6] It includes a review of existing LDR-related policies and laws as well as trends in labor disputes deduced from DOLE's administrative data. To demonstrate the workings of the administrative and judicial layers of the system, it includes a sampling of labor decisions of the Supreme Court from February to October 2021 as posted in its website.[7]

[6] The list of key informants is in Annex "A."
[7] The list of cases is in Annex "B."

2. POLICY AND INSTITUTIONAL FRAMEWORK

2.1. Legal instruments and structure

The major legal instruments that shape the policy and institutional framework of the LDR system are the 1987 Philippine Constitution; the Labor Code (mainly Book V and also Books III, IV and VI) and related legislations; and international labor standards (including ILO Conventions 87 and 98 which the Philippines ratified). As a matter of State policy, the Constitution affirms labor as a primary social economic force and aims to protect the rights and welfare of workers.[8] It shall "guarantee the rights of all workers to self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law," and "promote the principle of shared responsibility between workers and employers and the preferential use of voluntary modes in settling disputes, including conciliation, and shall enforce their mutual compliance therewith to foster industrial peace."[9]

The administrative layer of the LDR system is the lynchpin in carrying out the protection to labor policy. Consistent with the Constitution, DOLE and its attached agencies are mandated to promote industrial peace and harmonious labor relations by promoting the right of workers and employers to organize and to free collective bargaining as the foundation of the labor relations system.[10] The Labor Code provides:

> "Article 218 [211]. *Declaration of Policy.* A. It is the policy of the State:
>
> a) To promote and emphasize the primacy of free collective bargaining and negotiations, including voluntary arbitration, mediation and conciliation, as modes of settling labor or industrial disputes;
>
> b) x x x;
>
> c) x x x;
>
> d) x x x;
>
> e) To provide an adequate administrative machinery for the expeditious settlement of labor or industrial disputes;
>
> f) To ensure a stable but dynamic and just industrial peace; and
>
> g) To ensure the participation of workers in decision and policy-making processes affecting their rights, duties and welfare.
>
> "B. To encourage a truly democratic method of regulating the relations between the employers and employees by means of agreements freely entered into through collective bargaining, no court or administrative agency or official shall have the power to set or fix wages, rates of pay, hours of work or other terms and conditions of employment, except as otherwise provided under this Code."[11]

Since 1974 when the Labor Code established the current LDR system, legislative and executive measures have been introduced to strengthen its operation. The measures with the most consequential impact include:

1. Executive Order No. 126 (1987), which reorganized DOLE and created the National Conciliation and Mediation Board (NCMB) to formulate policies, develop plans and programs and set standards and procedures relative to the promotion of conciliation

[8] Constitution of the Republic of the Philippines (1987), ARTICLE II (Declaration of State policies), Section 8.
[9] ___, ARTICLE XIII (Social justice and human rights: labor), Section 3.
[10] Executive Order (E.O) No. 126, Reorganizing the Ministry [Department] of Labor (1987), Section 5 [h] and [f].
[11] LCP, as amended by Section 3, Republic Act No. 6715 (1989).

and mediation of labor disputes through the preventive mediation, conciliation and voluntary arbitration; facilitation of labor-management cooperation through joint mechanisms for information sharing, effective communication and consultation and group-problem solving.[12]

2. Republic Act No. 6715 (1989), as amended, which strengthened collective bargaining by removing statutory restrictions on the right to organize and to bargain, as well as the National Labor Relations Commission (NLRC)[13] as the country's primary labor arbitration tribunal.
3. Republic Act No. 8042 (1995), as amended, which transferred the jurisdiction to resolve disputes, including money claims, arising from employment contracts of overseas Filipino workers from the Philippine Overseas Employment Administration (POEA) to the NLRC.[14]
4. Republic Act No. 9347 (2006), which increased the number of commissioners in the NLRC from 15 to 24 (including the chairman), expanded the number of divisions from five to eight, and provided the basis to increase the number of labor arbiters and the creation of positions of commission attorneys.[15] This was followed by Republic Act No. 10741 further strengthening the operations of the NLRC.[16]
5. Republic Act No. 10396 (2013), as amended, which prescribed the general rule that all issues arising from labor and employment shall be subject to mandatory conciliation or mediation.[17]

2.2. LDR agencies and mandates

2.2.1. Scope of the administrative layer of LDR

The subject matter of labor disputes in the Philippines are predominantly violations of rights of individual workers arising from law or contract. Largely due to low trade union density

[12] Executive Order No. 126, Section 22.
[13] Otherwise known as an Act to extend protection to labor, strengthen the constitutional rights of workers to self-organization, collective bargaining and peaceful concerted activities, foster industrial peace and harmony, promote the preferential use of voluntary modes of settling labor disputes, and reorganize the National Labor Relations Commission. amending for this purpose P.D. no. 442, as amended, otherwise known as the Labor Code of the Philippines.
[14] Otherwise known as the Migrant Workers Act, as amended.
[15] Otherwise known as an Act rationalizing the composition and functions of the National Labor Relations Commission, amending for this purpose articles 213, 214, 215 and 216 of P.D. no. 442, as amended, otherwise known as the Labor Code of the Philippines.
[16] Otherwise known as an Act strengthening the operations of the National Labor Relations Commission, amending for this purpose articles 220 and 222 of Presidential Decree no. 442, as amended, otherwise known as the "Labor Code of the Philippines"
[17] Otherwise known as an Act strengthening conciliation-mediation as a voluntary mode of dispute settlement for all labor cases, amending for this purpose Article 228 of Presidential Decree no. 442, as amended, otherwise known as the "Labor Code of the Philippines." It provides: "ART. 234. *Mandatory Conciliation and Endorsement of Cases.* – (a) Except as provided in Title VII-A, Book V of this Code, as amended, or as may be excepted by the Secretary of Labor and Employment, all issues arising from labor and employment shall be subject to mandatory conciliation-mediation. The labor arbiter or the appropriate DOLE agency or office that has jurisdiction over the dispute shall entertain only endorsed or referred cases by the duly authorized officer.
"(b) Any or both parties involved in the dispute may pre-terminate the conciliation-mediation proceedings and request referral or endorsement to the appropriate DOLE agency or office which has jurisdiction over the dispute, or if both parties so agree, refer the unresolved issues to voluntary arbitration."

and coverage of collective bargaining agreements, collective or interest disputes constitute a minority of disputes.

The term "labor dispute" is used in a non-restrictive way. It includes matters involving violations of GLS and OSHS which arise from labor inspection and enforcement; matters relating to the exercise of some of the State's regulatory powers, such as registration of unions and cancellation of union registration; and matters involving certain social and welfare entitlements such as claims for employee's compensation. Correspondingly, the administrative layer of the LDR system is comprised of the offices, agencies and officials performing regulatory, conciliation, mediation, arbitration or quasi-adjudicatory functions. These agencies can be categorized into two groups: 1) the DOLE and its organic agencies or offices; and 2) specialized LDR agencies attached to DOLE.

2.2.2. DOLE and its organic agencies

DOLE's mandate is to "advance workers' welfare by providing for just and humane working conditions and terms of employment' and maintaining "industrial peace by promoting harmonious, equitable, and stable employment relations that assure equal protection for the rights of all concerned parties"[18] or, more specifically, "to uphold the right of workers and employers to organize and to promote free collective bargaining as the foundation of the labor relations system," and "to provide and ensure the fair and expeditious settlement and disposition of labor and industrial disputes through collective bargaining, grievance machinery, conciliation, mediation, voluntary arbitration, compulsory arbitration as may be provided by law, and other modes that may be voluntarily agreed upon by the parties concerned."[19]

Thus, DOLE has the leadership role and responsibility to ensure that the policy framework and institutions for LDR are properly guided and coordinated. DOLE has the authority to issue rules and regulations implementing the Labor Code, including the provisions of the Code on labor dispute resolution. It also has the overall responsibility of monitoring the performance of all LDR agencies and generating administrative data for this purpose. During the period covered by this assessment, administrative is generated through Project SpeED (Speedy and Enhanced Delivery of Labor Justice) which puts together the caseload and case disposition indicators coming from the different LDR agencies.[20]

DOLE's organic agencies involved in LDR are the Bureau of Labor Relations (BLR),[21] the Bureau of Working Conditions (BWC),[22] the DOLE Regional Offices which exercise

[18] Revised Administrative Code of the Philippines, Executive Order No. 292 (1987), Book II, Title VII, Chapter 1 (Labor and employment), Section 2 [2] and [3].
[19] E.O. No. 126, Section 5 [h] and [f]. See also Labor Code, Article 218 [211].
[20] Consolidated monitoring is done by DOLE's Planning Service.
[21] Under the Labor Code, the BLR has original and exclusive authority to act, at its own initiative or upon request of either or both parties, on all inter-union and intra-union disputes (Art. 232 [226]), controversies arising from the terms and conditions of union membership (Art. 250[242], and representation issues or petitions for certification elections in organized and unorganized establishments (Arts. 268 [256] and 269 [257]. Under the Administrative Code, the BLR also exercises regulatory functions. It has the mandate to set policies, standards, and procedures on the registration and supervision of legitimate labor union activities including denial, cancellation and revocation of labor union permits. It shall also set policies, standards, and procedure relating to collective bargaining agreements, and the examination of financial records of accounts of labor organizations to determine compliance with relevant laws (Book IV, Title VII, Chapter IV, Section 16).
[22] Under the Administrative Code, BWC is not directly involved in LDR. It has standards-setting functions in relation to working conditions and technical supervision over the regional offices in relation to the labour inspectorate. BWC is mandated to develop and prescribe safety standards, measures and devices; promote safety consciousness and habits among workers; develop and evaluate occupational safety and health programs for workers; develop plans, programs, standards and procedures for the enforcement of laws relating to labor standards, including the operation of boilers, pressure vessels, machinery, internal combustion engines, elevators,

delegated regulatory and enforcement powers as the authority representing the DOLE Secretary at the regional level, [23] and med-arbiters under the BLR and the Regional Offices.

Through the DOLE Secretary, DOLE's direct role in LDR is generally the exercise of appellate jurisdiction over decisions of DOLE regional directors, med-arbiters in the regional offices, and the BLR director in intra- or inter-federation disputes. It also has original jurisdiction over disputes in industries indispensable to the national interest,[24] and in situations requiring the suspension of the effects of an employer's action to terminate the services of employees for the purpose of protecting security of tenure or prevent labor dispute from escalation.[25] In these functions, the DOLE Secretary is assisted by the BWC, BLR and DOLE's Legal Service.

2.2.3. <u>The attached agencies</u>

The second group consists of specialized agencies attached to DOLE. Established by law specifically for LDR are the NLRC and the NCMB.

Through the 1989 amendments to the Labor Code, the NLRC became attached to DOLE solely for policy and program coordination. A quasi-judicial body with the broadest jurisdiction among all LDR agencies,[26] its function is to resolve disputes through compulsory arbitration. In deciding cases, the NLRC has two stages of adjudication –original jurisdiction through individual labor arbiters, and appellate jurisdiction through the Commission exercised by divisions composed of three commissioners each. The Commission also has original

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electrical equipment, wiring installations, and the construction, demolition, alteration and use of commercial and industrial buildings and other workplaces; prepare rules and regulations, interpretative bulletins and legal opinions relating to the administration and enforcement of labor standards; and provide manuals and plan programs for the training of field personnel; and provide technical and legal assistance to the inspectorate in the regional offices (Book IV, Title VII, Chapter IV, Section 20). BWC also provides support to the Office of the Secretary in the exercise of its appellate jurisdiction over labor standards cases.

[23] This is provided for in Article 128 of the Labor Code and is called the visitorial and enforcement power, or more commonly called labor inspection. Under this power, the Secretary of Labor and Employment or his duly authorized representatives, including labor regulation officers, shall have access to employer's records and premises at any time of the day or night whenever work is being undertaken therein, and the right to copy therefrom, to question any employee and investigate any fact, condition or matter which may be necessary to determine violations or which may aid in the enforcement of this Code and of any labor law, wage order or rules and regulations issued pursuant thereto.

[24] Labor Code, Article 278 [263](g).

[25] ____, Article 292 [277](b).

[26] ____, Article 224 [217]. *Jurisdiction of labor arbiters and the commission*.—(a) Except as otherwise provided under this Code, the Labor Arbiters shall have original and exclusive jurisdiction to hear and decide, within thirty (30) calendar days after the submission of the case by the parties for decision without extension, even in the absence of stenographic notes, the following cases involving all workers, whether agricultural or non-agricultural:

"(1) Unfair labor practice cases;

"(2) Termination disputes;

"(3) If accompanied with a claim for reinstatement, those cases that workers may file involving wages, rates of pay, hours of work and other terms and conditions of employment;

"(4) Claims for actual, moral, exemplary and other forms of damages arising from the employer-employee relations;

"(5) Cases arising from any violation of Article 264 of this Code, including questions involving the legality of strikes and lockouts; and

"(6) Except claims for employees compensation, social security, medicare and maternity benefits, all other claims arising from employer-employee relations, including those of persons in domestic or household service, involving an amount exceeding Five thousand pesos (P5,000.00), whether or not accompanied with a claim for reinstatement.

"(b) The Commission shall have exclusive appellate jurisdiction over all cases decided by Labor Arbiters. X x x."

jurisdiction over disputes in industries indispensable to the national interest that are certified to it by the DOLE Secretary.[27]

The labor arbiters perform their functions in the Regional Arbitration Branches (RAB). The number of arbiters assigned to each RAB vary depending on volume of cases. On the other hand, the Commission is composed of a chairman and twenty-three (23) commissioners divided into eight divisions of three commissioners each including the chairman. The first six divisions have jurisdiction of appeals coming from the RABs of the National Capital Region and the other Luzon regions. The seventh and eighth divisions have jurisdiction over appeals from RABs in Visayas and Mindanao respectively. Each commissioner is assisted by commission attorneys, and sometimes by labor arbiters, in the exercise of their functions.[28]

The NCMB is an agency under the administrative supervision of DOLE. Its main function is to provide conciliation and preventive mediation services and to administer the voluntary arbitration program.[28] Its focus are collective labor-management disputes in unionized enterprises. NCMB conciliators-mediators perform their functions through its Regional Branches.[29]

The NCMB runs an accreditation system for voluntary arbitrators and manages case assignments for them. Voluntary arbitration is a quasi-judicial proceeding that can be done by a sole arbitrator or by a panel of arbitrators. Voluntary arbitrators are industrial relations practitioners from the private sector and are not government employees. They have exclusive and original jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of a collective bargaining agreement (CBA)[30] as well as cases arising from the interpretation or implementation of company personnel policies.[31] Upon agreement of the parties, they also have jurisdiction over all other labor disputes including unfair labor practices and bargaining deadlocks.[32] Voluntary arbitration decisions are binding.

A third attached agency, the Employees' Compensation Commission (ECC), was not set up as an LDR agency. Its mandate is to administer and manage the employees' compensation

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[27] ___, Article 278 [263] (g).

[28] ___, Articles 220 [213] to 222 [215].

[29] Executive Order No. 126, Reorganizing the Ministry [Department] of Labor, (30 January 1987), Section 22. The functions of the NCMB under Section 22 are to:

(a) Formulate policies, programs, standards, procedures, manuals of operation and guidelines pertaining to effective mediation and conciliation of labor disputes; (b) Perform preventive mediation and conciliation functions;

(c) Coordinate and maintain linkages with other sectors or institutions, and other government authorities concerned with matters relative to the prevention and settlement of labor disputes;

(d) Formulate policies, plans, programs, standards, procedures, manuals of operation and guidelines pertaining to the promotion of cooperative and non-adversarial schemes, grievance handling, voluntary arbitration and other voluntary modes of dispute settlement;

(f) Administer the voluntary arbitration program; maintain/update a list of voluntary arbitrations; compile arbitration awards and decisions;

(g) Provide counselling and preventive mediation assistance particularly in the administration of collective agreements;

(h) Monitor and exercise technical supervision over the Board programs being implemented in the regional offices; and

(i) Perform such other functions as may be provided by law or assigned by the Minister.

[30] Labor Code, Article 274 [261].

[31] ___, Article 224 [217] (c) directs the labor arbiter to dispose of such cases by referring these to voluntary arbitration as provided in the applicable collective bargaining agreement.

[32] ___, Article 275 [262].

program. But as an incident to this, it has appellate jurisdiction over decisions of the branches of the Social Security Commission on employee's compensation claims.[33]

2.3. Underlying principles and design

The Constitution and the Labor Code lay down the policy framework to enable the parties to regulate their relations through bipartite mechanisms or processes such as collective bargaining, participation of workers in policy and decision-making processes affecting their rights and welfare, and shared responsibility of employees and employers in the prevention or settlement of conflicts or disputes.[34]

LDR agencies of the State come into play when bipartite mechanisms fail, are not available, or are not practical. The two main LDR approaches at the administrative layer are conciliation or mediation as the first and most preferred approach. Binding arbitration is the second approach if no settlement is reached. The key characteristics of the system can be summarized as follows:

a) Use of bipartite grievance mechanism is mandatory in enterprises with CBAs. It is encouraged in enterprises without CBAs.

b) Where administrative agencies need to intervene, voluntary approaches of LDR, particularly conciliation, mediation and voluntary arbitration, are preferred as a matter of policy.

c) Conciliation-mediation is generally mandatory in all labor disputes. It is the entry point of State intervention. It may result in a settlement or compromise agreement which, if it conforms with legal requirements for validity, is binding and enforceable.

d) Arbitration involves the exercise of jurisdiction, or the power to hear and decide a case. It resolves or adjudicates a dispute using quasi-judicial procedures through a final decision, order or resolution, or award which is binding and enforceable.

   Arbitration is either voluntary (performed by accredited voluntary arbitrators chosen by the parties) or compulsory (performed by full-time LDR public officers who cannot be chosen by the parties). Loosely, compulsory arbitration is also the process applied to the resolution of disputes arising from the regulatory and enforcement powers of DOLE.

e) Access to any LDR services is generally free, except in voluntary arbitration where the costs can be shared by the parties.[35]

f) The administrative LDR mechanism is separate and distinct from the country's court system. However, a decision, order, resolution or award rendered through arbitration may be reviewed by the courts on specified grounds in accordance with the Rules of Court.

[33] ___, Article 186 [180].
[34] See Philippine Constitution, Article XIII, Section 3, and the Labor Code, Article 218, among others.
[35] In the administrative agencies, there are prescribed fees and costs in voluntary arbitration where the parties pay a portion of voluntary arbitrators' fees; and in cases where the employer in a termination case is required to file a bond as a requisite for perfecting an appeal. In the courts, fees prescribed by the Supreme Court apply.

2.4. Conciliation and mediation; how operationalized

Conciliation or mediation as the preferred LDR approach is operationalized in two ways. One way is prior to and independently of arbitration. The other is as an integral part of arbitration.

The administrative agency specially organized to provide conciliation and mediation services outside of arbitration is the NCMB. It handles collective rights and interest disputes, particularly collective bargaining deadlocks, unfair labor practices and disputes arising from the implementation or interpretation of collective bargaining agreements or company personnel policies. The NCMB does not exercise jurisdictional power. Its competence or authority is to facilitate a settlement between the parties. Carved out of the BLR in 1987 as a result of DOLE's reorganization, the NCMB was a response to the surge of strikes and other collective disputes that followed the democratic restoration in 1986.

On the other hand, the rules of procedure of all LDR agencies including NLRC and DOLE and its organic agencies exercising jurisdictional power incorporate a "med-arb" or an "arb-med" process. For controversies over which they have acquired jurisdiction and which have been formally docketed as labor disputes, these agencies have rules of procedure that require mandatory preliminary conferences wherein the parties are encouraged to explore the possibility of settlement. Arbitration officers themselves are expected to personally conciliate or mediate.

Starting in the late 1990s, the volume of cases entering the system increased rapidly, stretching institutional capacity and resulting in delayed disposition of cases and backlogs especially in disputes elevated to arbitration. To address this problem and also to simplify access to the system, the policy response was to maximize and further strengthen the role of conciliation and mediation. The objective was to encourage settlements and filter the disputes being elevated to the more formal and potentially time-consuming process of arbitration. Thus, the idea of setting up a single mechanism for conciliation and mediation as an entry point for all disputes took shape. Out of this, the "single entry approach" or what is now institutionalized as SEnA emerged. Among the earlier experiments around this idea was the establishment of a mediation desk at the NLRC prior to docketing of the case for arbitration, and DOLE's "single team approach"[36] and "administrative intervention for dispute avoidance"[37] initiatives.

SEnA was formally adopted as a program through administrative guidelines by the DOLE Secretary in 2010. The guidelines prescribed a mandatory 30-day period for conciliation and mediation of all labor and employment cases.[38] In 2013, SEnA was institutionalized by legislation making conciliation and mediation generally mandatory "to all issues arising from labor and employment."[39]

SEnA has two major effects on the LDR system. First, it dispersed conciliation functions to several agencies even if they do not have explicit statutory mandates for LDR. Pursuant to this, agencies like the Philippine Overseas Employment Administration (POEA), the Overseas Workers Welfare Administration (OWWA), and the Philippine Overseas Labor Offices (POLOs) have established their own desks to serve overseas Filipino workers (OFWs). As a form of assistance to their clientele, they provide preliminary conciliation or mediation services in the settlement of OFW claims either onsite in the place of employment or in the Philippines.

[36] This was used in collective disputes arising from closure, redundancy or retrenchment in enterprises.
[37] DOLE Circular No. 1 (2006).
[38] DOLE Department Order No. 107 (2010), Guidelines on the Single Entry Approach
[39] LCP, Article 234 [228], as amended by Republic Act No. 10396. Currently being implemented through DOLE D.O. No. 151 (2016).

Second, SEnA also allowed LDR agencies to intervene or provide assistance or advisory services at an earlier stage of a dispute, or even prior to the actual existence of a dispute. Thus, matters which parties bring to SEnA desks are denominated as "requests for assistance" (RFAs) instead of being immediately classified as "labor disputes." If the SEnA process does not result in a settlement, the matter will be referred to the appropriate agency with jurisdiction over the subject matter. Only then will it be formally classified as a labor dispute. SEnA thus allows for an "advanced" or "preliminary" form of conciliation.

As it now stands, conciliation and mediation as a preferred approach is being implemented in two tracks. One is through the specialized LDR agencies that are vested with jurisdictional power. Through this track, conciliation and mediation is incorporated in each agency's rules of procedure. The other is through the SEnA program. This program expands the scope of conciliation and allows government intervention at an earlier phase, not only to facilitate settlement but also to prevent disputes by providing information, guidance and possibly early neutral evaluation of potentially contentious issues.

2.5. Arbitration: jurisdiction of agencies and subject matter of labor disputes

Arbitration in the Philippines is used loosely to include the resolution of any labor dispute by an agency vested with jurisdictional power. At the administrative layer, these agencies are the DOLE through the Secretary of Labor, the NLRC through its labor arbiters and commissioners, the BLR, the DOLE Regional Offices, the med-arbiters, the voluntary arbitrators, and the ECC. These agencies are governed by specialized quasi-judicial procedures. Jurisdiction of an agency is conferred by law based on the subject matter in dispute. It can either be original or appellate. Below are the LDR agencies, the nature of their jurisdiction, and the specific disputes which they have authority to resolve.

2.5.1. DOLE Office of the Secretary

The DOLE Office of the Secretary exercises both original and appellate jurisdiction. The matters over which it has original jurisdiction are:

a) Collective disputes involving collective bargaining deadlocks and unfair labor practices in industries indispensable to the national interest through the exercise of compulsory arbitration powers.[40]

b) Suspension of effects of termination of employment pending resolution of a dispute in the event of a *prima facie* finding by the appropriate DOLE official before whom the case is pending that the termination may cause a serious labor dispute or is in implementation of a mass lay-off.[41]

c) Work stoppage orders on occupational safety and health standards violations.[42]

d) Inquiry or examination, *motu proprio* or upon complaint, into the financial activities of legitimate labor organizations.[42]

e) Citations for contempt.[43]

[40] Labor Code, Article 278 [g].
[41] ____, Article 292 [277](b).
[42] ____, Article 128. In practice, this is concurrently exercised by the Regional Director as a delegated authority.
[42] ____, Article 289 [274].
[43] ____, Article 231 [225].

The matters over which the DOLE Secretary has appellate jurisdiction are the following:

a) Decisions or orders of DOLE Regional Directors involving general and occupational safety and health standards arising from labor inspection cases;[44] cancellation of registration of contractors or subcontractors, and local recruitment agencies; disputes arising from the employment of domestic household workers.[45]

b) Decisions of BLR Director on intra- or inter-federation/national union disputes; and denial or cancellation of registration of federations and national unions.

c) Orders of med-arbiters in the Regional Offices on conduct of certification election; certification of the duly elected collective bargaining agent; and other representation issues involving enterprise-level unions.[46]

There is no statutory right to appeal the final decisions, orders or resolutions of the DOLE Secretary, whether in the exercise of original or appellate jurisdiction. These become final and executory 10 days from receipt thereof by the parties. Within the 10-day period, however, a party may file a motion for reconsideration.

2.5.2. DOLE Regional Office/Director

The DOLE Regional Office, through the regional director, has original jurisdiction over the following:

a) Disputes involving violation of labor standards (exercise of visitorial and enforcement or labor inspection power under Article 128 of the Labor Code) when there is still an actual employer-employee relationship, specifically:

- Violations of working conditions or general labor standards under Book III of the Labor Code and related laws (i.e., working hours and rest days, holidays, leaves, night shift differential, overtime, wages, overtime, rest day and holiday pay).[47]
- Matters arising from the right to security of tenure, particularly regularization of employees, in cases involving contracting or subcontracting arrangements incident to the conduct of labor inspection.[48]
- Violations of OSH standards under Book IV of the Labor Code, Republic Act No. 10598 and its implementing rules, and DOLE's OSHS Rules.
- Work stoppage orders arising from accidents and actual or imminent danger situations. [49]
- Small money claims not exceeding P5,000 when the employer-employee relationship still exists.[50]

[44] In the disposition of these cases, the DOLE Secretary may be assisted by the BWC or by the Legal Service.
[45] Section 37, Republic Act No. 10361 of 2013 (Domestic Workers Act or *Batas Kasambahay*) and Rule XI, Sections 1 and 2 of its implementing rules)
[46] In these cases, the Secretary may be provided technical support by the BLR.
[47] LCP, Articles 82-161.
[48] DOLE Department Order No. 174-17, implementing LCP, Arts. 106-109.
[49] Concurrent with the Office of the Secretary through delegated authority under LCP, Article 128.
[50] LCP, Article 129.

b) Disputes arising from the employment of domestic workers.[51]

c) Disputes involving regulation and administration of enterprise-level unions (independently registered unions and of charters), specifically denial or cancellation of union registration and audit of union funds.[52]

d) Inter- and intra-union disputes involving rights and conditions of union membership involving enterprise level unions.[53]

Decisions or orders of the regional director under Letters a) and b) are appealable to the DOLE Secretary except small claims under Article 129 which are appealable to the NLRC. Those under Letter c) are appealable to the BLR.

2.5.3. Bureau of Labor Relations/BLR Director

The BLR, through its director, exercises both appellate and original jurisdiction on disputes involving regulation and administration of union activities.[53] It has original jurisdiction over the following:

a) Denial or cancellation of registration of federations, national unions and trade union centers.[54]

b) Inter- and intra- federation, national union or workers association disputes involving affiliation, disaffiliation and rights and conditions of membership.[56]

c) Petitions for certification election in the public sector under Executive Order No. 180.[55]

The BLR has appellate jurisdiction over decisions or orders of DOLE Regional Offices on disputes involving regulation and administration of enterprise-level unions[56] and on decisions or orders of med-arbiters on inter- and intra-union disputes other than certification election.[57]

2.5.4. Med-Arbiter

The med-arbiter[58] in the DOLE Regional Office has original jurisdiction over the following:

a) Inter- and intra-union disputes.[59]

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[51] Republic Act No. 10361 of 2013 (Domestic Workers Act or *Batas Kasambahay*), Section 37; Rule XI, Sections 1 and 2 of implementing rules.
[52] LCP, Articles 243 and 245; DOLE Department Order No. 40 (2003), as amended, Rule IV, Section 4. [53] As enumerated in DOLE Department Order No. 40 (2003), as amended, Rule XI, Section 1 in relation to Section 15.
[53] The BLR director is assisted by the med-arbiters assigned to the bureau.
[54] LCP, Articles 243 and 245; DOLE Department Order No. 40 (2003), as amended, Rule IV, Sections 6 and 7.
[56] As enumerated in DOLE Department Order No. 49 (2003), as amended, Rule XI, Section 1 in relation to Section 15.
[55] Public Sector Labor-Management Council (PSLMC) Resolution No. 2, series of 2004, amended rules and regulations implementing on the right to self-organization of government employees.
[56] DOLE Department Order No. 40 (2003), as amended, Rule IV, Sections 6 and 7.
[57] As enumerated in DOLE Department Order No. 40 (2003), as amended, Rule XI, Section 1 in relation to Section 15.
[58] In practice, the med-arbiter also acts as legal officer of the Regional Office on all legal matters. In relation to LDR, the med-arbiter is under the administrative supervision of the Regional Office and technical supervision of the BLR.
[59] LCP, Articles 232, 251 and 289. As enumerated in DOLE Department Order No. 40 (2003), as amended, Rule XI, Section 1 in relation to Section 15.

b) Petitions for certification election.[60]

The decisions or orders of the med-arbiter on inter- and intra-union disputes are appealable to the BLR, while on certification elections to the DOLE Secretary.

2.5.5. National Labor Relations Commission (NLRC)

The NLRC has two stages of adjudication and two levels of jurisdiction. Original jurisdiction is exercised through individual labor arbiters in the regional arbitration branches. Appellate jurisdiction is exercised by a division of three commissioners, sometimes referred to as the Commission proper.

The labor arbiter has original and exclusive jurisdiction over the following:

a) Cases specified under Article 224, specifically unfair labor practices; termination disputes; cases involving wages, rates of pay hours of work and other terms and conditions of employment, if accompanied with claim for reinstatement; claims for actual, moral, exemplary and other forms of damages arising from employer-employee relations.[61]

b) Cases arising from the commission of prohibited acts, including the legality of strikes and lockouts.[62]

c) Other money claims exceeding P5,000 except social legislation claims.[63]

d) Money claims of overseas Filipino workers.[64]

e) Wage distortion in enterprises with no collective bargaining agreement or no union.[65]

The Commission has appellate jurisdiction over the following disputes:

a) All decisions or orders of labor arbiters in the exercise of their original jurisdiction.

b) Decisions or orders of the DOLE Regional Office on small money claims not exceeding P5,000.[66]

c) Petition for extraordinary remedy to annul or modify an order or resolution of the labor arbiter issued during execution proceedings. [67]

Exceptionally, the Commission also exercises original jurisdiction over the following disputes:

a) Collective disputes in industries indispensable to the national interest certified to the Commission by the Secretary of Labor for compulsory arbitration.[68]

b) Injunction to prevent commission of illegal acts.[69]

c) Citations for contempt.[70]

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[60] ___, Articles 268-270.
[61] ___, Article 224 [217].
[62] ___, Article 279 [264] (Prohibited Activities).
[63] ___, Article 129.
[64] Republic Act No. 8042, as amended, Section 10.
[65] LCP, Article 124, para. 5.
[66] ___, Article 129.
[67] NLRC Rules of Procedure, Rule XII, Section 1. This procedure is not provided for in the law.
[68] LCP, Article 278 [263] (g).
[69] ___, Article 225 [218] (e).
[70] ___, Article 225 (d).

There is no statutory right to appeal the final decisions, orders or resolutions of the Commission, whether in the exercise of original or appellate jurisdiction. These become final and executory 10 days from receipt thereof by the parties.[71]

2.5.6. Voluntary arbitration

Voluntary arbitration may be through an individual voluntary arbitrator or a panel of arbitrators. The voluntary arbitrator or panel of arbitrators has original and exclusive jurisdiction over the following disputes: [72]

a) All unresolved grievances arising from the interpretation or implementation of collective bargaining agreements and interpretation of company personnel policies.[73]

b) Wage distortion arising from the implementation of wage orders in enterprises with collective bargaining agreements or with recognized unions.[74]

c) Disputes from unresolved grievances arising from the implementation of a productivity incentives program.[75]

The voluntary arbitrator or panel of arbitrators has original and concurrent jurisdiction over the following disputes:

a) All other disputes submitted to voluntary arbitration by agreement of the parties, including unfair labor practices and bargaining deadlocks.[76]

b) Claims of seafarers covered by existing collective bargaining agreements that are not resolved through the grievance mechanism, without prejudice to other modes of voluntary settlement of disputes or to the jurisdiction of the NLRC or the POEA.[77]

There is no statutory right to appeal the final decisions, orders, resolutions or awards of the voluntary arbitrator. These become final and executory 10 days from receipt thereof by the parties. However, the Supreme Court has ruled that within the 10-day period, a party may still file a motion for reconsideration.[78] Notwithstanding the absence of a statutory right to appeal, the Revised Rules of Court nevertheless provides that the decision of the voluntary arbitrator may be appealed through a petition for review with the Court of Appeals.[79]

2.5.7. Employees Compensation Commission

The ECC has appellate jurisdiction over decisions or resolutions of the branches of the Social Security System with respect to coverage, entitlement to benefits, collection and payment of contributions and penalties related to the Employees' Compensation fund. Under

[71] ___, Article 229 [223].
[72] ___, Article 276 [262-A]; Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings, Rule IV, Section 1.
[73] ___, Article 274 [261] in relation to Article 224 (c).
[74] ___, Article 122.
[75] Republic Act No. No. 6971, Section 9.
[76] LCP, Article 275 [262].
[77] Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers on Board Ocean-Going Ships, as amended (2010), Section 16 (Grievance Machinery), C and D.
[78] *Teng v. Pahagac, G. R. No. 169704, November 17, 2010*; *Guagua National Colleges v. Court of Appeals, En Banc, G. R. No. 188492, August 28, 2018*.
[79] Rule 43, Sections 1 and 4 of the Revised Rules of Court provides that an appeal from the voluntary arbitrator's decision through a petition for review may be filed with the Court of Appeals within 15 days from receipt of the appealing party of the decision appealed from.

the Labor Code, the decision of the ECC may be elevated for review by the Supreme Court on a question of law. [80]

2.5.8. Philippine Overseas Employment Administration

The POEA's jurisdiction over disputes arising from employment relate to the exercise of its administrative power to regulate recruitment agencies for overseas Filipino workers under the Migrant Workers Act. Under the Act, decisions or orders of the POEA in the exercise of this power are appealable to the DOLE Secretary. However, with the creation of the new Department of Migrant Workers (DMW), appeals from POEA decisions will now be under the jurisdiction of the DMW Secretary.[81] The exercise of the POEA's and DMW's power, while it may affect workers, is not deemed part of the LDR system as it is not concerned with enforcement of rights arising from employer-employee relations. The role of the DMW in LDR is through the mandatory conciliation process under SEnA, through which it has the duty to conciliate any administrative complaint, including money claims, involving a seafarer, licensed manning agency, or principal/employer relating to overseas employment. If the parties are unable to settle, the complaint shall then be endorsed to the appropriate office or agency.[82]

2.6. Rules of procedure pertaining to conciliation, mediation and arbitration

The LDR agencies use several rules of procedure for different LDR approaches and types of disputes. These procedures are either - 1) general procedures in the nature of implementing rules and regulations (IRRs) issued by the DOLE Secretary in the exercise of its rule-making authority; or 2) specialized procedures applicable to particular LDR approaches issued either by the DOLE Secretary or by the concerned LDR agency.

The relevant IRRs issued by the DOLE Secretary are the following:

a) DOLE Department Order No. 40 (2003), as amended, or the Implementing Rules and Regulations of Book V of the Labor Code (DOLE D.O. No. 40-03). This is the set of procedures with the most general application as it covers all administrative LDR agencies except those performing labor inspection and enforcement. It also contains the procedures in the resolution of certification election cases and inter- and intra-union disputes as well as disputes arising from the administration or regulation of unions that fall under the jurisdiction of the DOLE Secretary, BLR, and Regional and Field Offices including by med-arbiters and election officers.[83]

b) DOLE D.O. No. 147 (2015), amending D.O. No. 40 in relation to rules governing termination of employment under Articles 297 to 299 of the Labor Code.

c) DOLE D.O. No. 151 (2016), or Implementing Rules and Regulations of Republic Act No. 10396 making conciliation-mediation mandatory for all labor cases. This is also known as the Single Entry Approach (SEnA) Implementing Rules and Regulations (SEnA IRR).

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[80] LCP, Articles 186 [180] and 187 [181]; Rule 43, Sections 1 and 4 of the Revised Rules of Court now provides that an appeal through a petition for review should be filed with the Court of Appeals within 15 days from receipt of the appealing party of the order, resolution or decision appealed from.

[81] Republic Act No. 11641 (Department of Migrant Workers' Act, 2022).

[82] Resolved through voluntary arbitration for cases involving claims of seafarers who are covered by a CBA; through the labor arbiter of the NLRC for all other cases. See 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers, Rule II, Section 119; 2016 Revised POEA Rules and Regulations Governing the Recruitment and Employment of Land-Based Filipinos, Rule II, Section 139.

[83] Rules VIII to XII.

d) DOLE D. O. No. 174 (2017), Rules Implementing Articles 106 to 109 of the Labor Code (on contracting and subcontracting).

e) DOLE D.O. No. 183 (2017), or the Revised Rules on Administration and Enforcement of Labor Laws Pursuant to Article 128 of the Labor Code. This is used in labor inspection, particularly on general labor standards under Books III and IV of the Labor Code, other special laws and social legislations.

f) DOLE D.O. No. 198 (2018), or the Implementing Rules and Regulations of Republic Act No. 11058, an Act Strengthening Compliance with Occupational Safety and Health Standards. These Rules complement DOLE D.O. No. 183 and are administered and implemented through the DOLE Regional and Field Offices and the DOLE Secretary.

g) Inter-agency Implementing Rules and Regulations on Republic Act No. 10361 or *Kasambahay* Law (2013)[84] under which the primary mechanism for settlement of disputes conciliation or mediation at the barangay level. If this is not successful, a *kasambahay* may go to the DOLE Field, Provincial or Regional Offices and the NLRC for conciliation.[85] If there is no settlement, the DOLE Regional Office can arbitrate.

The specialized procedures used by different agencies are the following:

a) 2011 NLRC Revised Rules of Procedure, as amended, issued by the Commission pursuant to its statutory power to promulgate rules and regulations governing compulsory arbitration proceedings before labor arbiters and the divisions of the Commission.[86] The Rules provide for mandatory conciliation as part of the proceedings.[87] This is distinct from preliminary conciliation through the NLRC SEnA desks, which is governed by the SEnA IRR and which takes place as a pre-arbitration process before a dispute is formally docketed for arbitration.

b) Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings (2005), issued by the DOLE Secretary upon recommendation of the Tripartite Voluntary Arbitration Council. The Guidelines are administered and implemented by NCMB and governs the disposition of cases by voluntary arbitrators in relation to cases falling under their jurisdiction. As in the NLRC Rules, the Guidelines incorporate a conciliation or settlement procedure in the voluntary arbitration proceedings. Thus, while mandated to decide, the voluntary arbitrator also has the duty to conciliate and mediate.[88]

c) NCMB Revised Manual of Procedures for Conciliation and Preventive Mediation Cases (2017 Edition), issued by the NCMB Administrator. This Manual has been in use, with occasional amendments, after NCMB was established. The Manual covers the handling of collective disputes in unionized enterprises, particularly preventive mediation cases, notices of strikes and lockouts, and actual strikes and lockouts.[89]

[84] An Act Amending Book III, Articles 141-152 of the Labor Code, Otherwise Known as the "Magna Carta for the Kasambahay."
[85] ___, Article 5, Sections 30 to 32; Implementing Rules and Regulations, Rule XI, Sections 1 – 2.
[86] LCP, Articles 225 [218] (a) and 220 [213].
[87] 2011 Revised NLRC Rules, Rule V, Section 8.
[88] Revised Voluntary Arbitration Guidelines, Rule V, Section 1 and Rule VI, Section 3.
[89] Rule I, Section 3.

2.7. Role of the judiciary in LDR: relationship between administrative and judicial layers

Final decisions, orders, resolutions or awards of the DOLE Secretary, labor arbiter, division of the NLRC, BLR director, regional director, med-arbiter and voluntary arbitrator or panel of arbitrators become final and executory after ten (10) days from receipt thereof by the parties unless, in appropriate cases, an appeal within the administrative structure is taken by the concerned party.[90]

Except in relation to disputes resolved by ECC,[91] the Labor Code does not provide for a statutory basis to appeal final decisions of administrative LDR agencies to the courts after the appellate procedure within the administrative layer has been exhausted. Resort to the courts can only be through the invocation of judicial power, defined as the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government.[92]

In relation to LDR, the exercise of judicial power is to determine whether the administrative agency committed grave abuse of discretion. It is discretionary upon the court and not a matter of statutory right vested in the parties. Thus, the judicial layer materializes only when a party aggrieved by the decision of an administrative agency invokes the judicial power and the court finds a compelling reason to exercise it. Under the principle of hierarchy of courts, a petition invoking judicial power should first be filed with the Court of Appeals via a petition for review based on narrow grounds of grave abuse of discretion[93] as contemplated in a special civil action for *certiorari* under Rule 65[94] of the Rules of Court. Exceptionally, a petition for review under Rule 43[95] of the same Rules can be filed with the Court of Appeals on judgments or final orders issued by the Employees' Compensation Commission[96] or voluntary arbitrators. Either way, the decision or resolution of the Court of Appeals can be elevated to the Supreme Court via an appeal for *certiorari* under Rule 45 of the Rules of Court based only on questions of law.[97] A review of the Court of Appeals' decision is, again, not a matter of right but is discretionary upon the Supreme Court.[98]

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[90] The 10-day period is prescribed in various provisions of the Labor Code.

[91] LCP, Article 187 [181].

[92] Philippine Constitution, Article VIII (Judicial Department), Section 1.

[93] The doctrine of hierarchy of courts was laid down by the Supreme Court in *St. Martin's Funeral Homes v. NLRC, En Banc, G. R. No. 130866, 16 September 1998*.

[94] Rule 65 (Certiorari, Prohibition and Mandamus) is a special civil action that is proper when **w**hen any tribunal, board or officer exercising judicial or quasi-judicial functions has acted without or in excess its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, and there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law (Section 1). The application of Rule 65 and Rule 43 of the Rules of Court is explained, among other cases, in *Philippine National Bank v. Gregorio, G.R. No. 194944, 18 September 2017*.

[95] Rule 43 (Appeals from the Court of Tax Appeals and Quasi-Judicial Agencies to the Court of Appeals), applies to appeals on final orders or resolutions of or authorized by any quasi-judicial agency in the exercise of its quasi-judicial functions, including the Employees' Compensation Commission and voluntary arbitrators (Rule 43, Section 1). It does not apply to judgements or final orders issued under the Labor Code.

[96] Article 187 [181] of the Labor Code provides that decisions, orders or resolutions of the ECC may be reviewed on certiorari by the Supreme Court on a question of law upon petition by an aggrieved party. This provision should now be interpreted in line with the principle of hierarchy of courts and with the explicit provision of Rule 43, Section 1 of the Rules of Court which directs that the filing of such petitions shall be with the Court of Appeals.

[97] Revised Rules of Court, Rule 45, Section 1.

[98] ___, Rule 45, Section 6. "*Review discretionary*. — A review is not a matter of right, but of sound judicial discretion, and will be granted only when there are special and important reasons thereof. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of the reasons which will be considered:

The sampling of Supreme Court decisions on labor that was done as part of this assessment offers a glimpse of the extent of the role of the courts.[99]

Based on the historical number of cases handled and disposed by the administrative LDR agencies, only a small fraction of final decisions, orders, resolutions or awards of LDR agencies is actually elevated to the courts and decided on the merits. This is a logical outcome of the role of the courts in relation to decisions of administrative or quasi-judicial bodies and the conditions for invoking judicial recourse. Generally, there is no statutory right to appeal to the courts in labor disputes and judicial review is a matter of discretion based on clear grounds.

Nevertheless, this fraction of cases constitutes a significant portion of the total caseload of the Supreme Court, which suggests of the importance the Court affords to labor cases. Supreme Court rulings affect the LDR system not so much for their quantity, but for serving as judicial precedents that administrative agencies and the courts themselves are bound to respect as part of the legal system of the Philippines.

In almost all the decisions in the sample, the Supreme Court consistently reiterated the rule that decisions or resolutions of specialized administrative bodies which have developed institutional expertise on matters within their competence or jurisdiction are entitled to great respect. Judicial power should be exercised sparingly and under narrow grounds. In many of the cases, it was exercised because the rulings of the labor arbiter, the voluntary arbitrator, the Commission and the Court of Appeals were at odds with each other.

"(a) When the court *a quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or

"(b) When the court *a quo* has so far departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision."

[99] Further analysis of the sampling is found in Sections 3.4.6 and 3.4.8 of this assessment.

3. DELIVERING LABOR JUSTICE: PERFORMANCE OF THE LDR SYSTEM

3.1. Performance areas and indicators

The central theme of the assessment is the timely and effective realization of labor justice, with accessibility, effectiveness and efficiency of the system as the key areas of inquiry. The overall performance of all LDR agencies is monitored through DOLE's Project SpeED, which was set up to help unclog the dockets of DOLE offices and agencies involved in case handling. It aims to dispose of the cases filed before DOLE offices and agencies within the prescribed process cycle time of case disposition.[100] A companion dataset for performance monitoring is the Labor-Related Data (LRD) which disaggregates accomplishments into program areas such as conciliation and mediation under SEnA and NCMB and labor inspection. The administrative data is consolidated by DOLE's Planning Service. Data made available for this assessment covers the period from 2016 to August 2021.[101]

The performance indicators in the administrative data are total caseload, settlement or disposition rate, workers or parties benefitted, and amounts awarded, if any. The DOLE data does not include indicators on process cycle time and ageing of cases, the dates of filing and submission of a dispute for resolution (although some agencies generate more specific information on these matters in their own agency-level monitoring), and the actual implementation, execution or satisfaction of decisions. The assessment sought to obtain information on these matters from the stakeholders' survey as well as from key informants. The analysis in the sections that follow are based on DOLE's administrative data, and responses from the survey and key informants.

3.2. Accessibility

To be accessible, the system must first of all be widely known and readily available to parties and other interested users. It must also be transparent, accountable and responsive. From a policy standpoint, accessibility also involves how access may be broadened to make the system available to those who are in labor relationships but are excluded, by law or in effect, from accessing it.

3.2.1. Stakeholders' perceptions

All the LDR agencies maintain websites and online portals providing information of their mandates and services, question-and-answer portals, and links to the various laws and rules of procedure that they implement. In the stakeholders' survey, the following are notable:

- About 65% of government respondents, 30% of employer respondents (employers) and 28% of worker respondents (workers) indicated that all LDR agencies have updated official websites, official primers of their services, and updated rules of procedure.
- About 20% of employers and 15% of workers are not aware that such websites, materials or rules exist.
- On process flow charts and citizens' charters prominently displayed in the agency or online, which are mandatory for regulatory agencies, 61% of government respondents are aware that all LDR agencies have flow charts, and 79% are aware that LDR agencies also have citizen's charters.

[100] https://www.dole.gov.ph/speedy-and-efficient-delivery-of-labor-justice-project-speed/.
[101] Compiled and provided by DOLE's Planning Service.

- About 25-35% of workers and employers indicate that all agencies have flow charts and citizen's charters, but a significant percentage (24-38%) are not aware of such materials.
- On online portals that provide data on the performance and accomplishments of LDR agencies, only 56% of government respondents say that all LDR agencies have this, compared to 23% of employers and 31% of workers.

On awareness and knowledge of the relevant implementing rules and regulations (IRRs), the following can be noted:

- The IRR with the highest level of knowledge and utility among government, workers and employers who responded to the survey is the SEnA IRR. About 51% of workers, 77% of employers and 91% of government are knowledgeable of and find the IRR useful. However, about 18% of workers have no knowledge of or are not aware of it.
- As to the other IRRs, employers generally have a uniform knowledge and utility level at 54%. However, 23% of them are not aware of D. O. No. 183-17 (the IRR on enforcement and inspection). Workers have a 50% knowledge and utility level of the same IRRs except in voluntary arbitration which is 39%. About 18% have no knowledge or are not aware of D. O. Nos. 183-17 and No. 40-03.

The uneven responses to the IRRs may reflect the segmentation of disputes and specialization of LDR agencies and users. The profiles of the government respondents indicate that they mostly come from the DOLE and its organic agencies. These officers are the implementors and users of the IRRs on SEnA, inspection and trade union activities. In relation to the NLRC rules, 24% have knowledge of and found it useful, 49% were aware of but have not used it, while over 15% are not aware of it. A similar pattern is observable among workers, many of whom come from unionized establishments who have a high level of knowledge of D.O. No. 40-03 concerning trade union and collective disputes and of the NCMB rules, but do not have the same level of knowledge of NLRC rules and the IRR on inspection.

In terms of facilities that promote access, such as properly staffed hotlines, desks or online portals that respond to queries or requests for assistance on labor rights and on the status of cases, 25% of workers, 15% of employers, and 60% of government respondents indicate that all LDR agencies have them. About 29% of workers say that more than two but not all have them, while 62% of employers say that only one or two have them.

On adequately trained staff able to immediately and authoritatively respond to phone-in, walk-in and online queries and requests for assistance, 66% of government respondents say that all LDR agencies have them, compared to 31% for both workers and employers. Significant to note is that 27% of workers and 46% of employers say that only one or two LDR agencies have such staff capability.

The steps and jurisdictional conditions that a party invoking access to the LDR system are clearly stated in the various IRRs. Appropriate templates and forms for requests for assistance and complaints are provided by the concerned LDR agencies.

Except in voluntary arbitration, parties cannot choose the LDR officer who will handle the dispute. The general policy is to assign cases at random. On the existence of a mechanism for this, government respondents say that 63% of all LDR agencies have it, compared to 38% of employers and 25% of workers.

In terms of physical accessibility, all LDR agencies have regional branches. The physical venue for LDR proceedings is the region where the case originated. Rules on venue are

incorporated in the IRRs. For convenience of clients, some LDR agencies also have satellite or field offices operating in provinces or cities outside the regional center, especially in the more industrialized areas where the volume of labor disputes is higher. Agencies like the BLR and the Regional Offices also employ, where necessary, the strategy of complementation or "pairing" in which a med-arbiter from one region may be authorized to resolve cases in another where no med-arbiter is available.

In terms of online accessibility and online proceedings, none of the IRRs have specific provisions for this purpose. During the pandemic, most of the agencies opened portals for electronic filing of requests and complaints. Online conciliation and mediation were also tried in more urbanized areas. Seen as interim measures, these were covered by guidelines and advisories rather than by IRRs. Key informants concede that the experience opened their horizons to the potentials of online proceedings in promoting access and convenience of the parties. But practical problems were also noted, such as poor internet connectivity, inadequate facilities and lack of the necessary gadgets to go online. Labor sector informants, particularly, are concerned about lack of resources, knowledge or digital access of many worker complainants. Government informants also note that some agencies do not have accounts to use platforms like zoom, such that they sometimes ask the employer party to set up the meeting links for online conferences.

3.2.2. Legal factors and eligibility conditions affecting access

The precondition for a labor dispute to exist is it must arise from an employer-employee relationship. All labor law practitioners know that the first line of defense that an employer will put up before any LDR agency is the absence of an employer-employee relationship. This issue is often presented as a threshold or prejudicial issue before an LDR agency can acquire jurisdiction over a dispute. Even in inspection, jurisprudence is settled that the precondition for DOLE to exercise its enforcement power is that the employer-employee relationship must first be established.[102] In a recent controversy involving a food delivery company and its delivery riders, DOLE was initially reluctant to intervene because delivery riders were seen as independent contractors, not employees. In another collective dispute filed with the NCMB and handled by an NCMB director, the employer sought to be excluded from the conciliation proceedings on the ground that the workers who complained were not its employees but were the employees of its contractor. In such cases, the question of employer-employee relationship can become a legal barrier to access the system.

Given the clear wording of the law and settled jurisprudence, it will require a legislative redefinition of what constitutes a labor dispute to give an LDR agency exercising jurisdictional power to intervene on matters arising from work relations where the employer-employee relationship is ambiguous or is not present. Nevertheless, there might be space for administrative policy to allow for more inclusionary access. This is discussed under the recommendations.

3.3. Efficiency of the LDR system

3.3.1. Parameters and factors relating to efficiency

The basic standard of efficiency is the timely disposition of cases at the least cost to the parties. Delayed disposition of cases and backlogs have always been the main issue with the LDR system. Technically, the disposition of a case is considered delayed when 1) in arbitration

[102] See, for instance, *People's Broadcasting (Bombo Radyo) Phils., Inc. v. Secretary of Labor, G. R. No. 179652, May 8, 2009.*

cases, a case is not resolved within the period prescribed by law from the time the case is submitted for resolution; or 2) in conciliation, a case is not settled within the process cycle time (PCT) targeted by the agency. So long as cases handled within a given period exceeds cases disposed, there will always be the possibility of delayed resolution of cases and consequent backlogs.

Efficiency can be affected, among others, by the structure of the system, volume of cases entering the system, jurisdictional allocation among agencies, geographical distribution of cases, the number of LDR officers and their actual performance, the nature and number of parties involved in a case, and the complexity of procedures and substantive issues in the dispute. Also contributing to efficiency are procedures that are transparent, simple, appropriate to the needs of users applied in a consistent and predictable manner, as well as the presence of an information and management system that monitors case flow and performance of responsible LDR officers.

The analysis in this section will focus on the NLRC, DOLE's inspection and enforcement program, and conciliation through SEnA and NCMB. These are the agencies with the highest caseloads and whose interventions translate into monetary reparations or awards.

3.3.2. Overall performance of the LDR system

In DOLE's administrative data from Project SpeED and LRD, the efficiency indicators are total cases handled, settlement or disposition rates, workers or parties benefitted, and amounts awarded, if any (**Table 1**). The main measure of efficiency is disposition rate, computed as total cases disposed for the year over the total cases handled within the same year.

In 2016, all the LDR agencies had a net total caseload of 66,872 cases, of which 60,925 (91%) were disposed. In 2019, the year before the pandemic, net total caseload increased to 87,783 cases, with 78,039 (88.9%) disposed. In 2020, the caseload decreased to 51,863 cases reflecting the impact of the pandemic, with 47,435 (91.46%) disposed. It further decreased to 28,667 cases as of August 2021, with 23, 212 (80.97%) disposed.

Total monetary benefits awarded was highest in 2016 at over PHP 26 billion. This went down by more than half in 2017 and then rose to over PHP 16.1 billion in 2019 with over 449 thousand workers benefitted. In 2020, total monetary benefits awarded went down to about PHP 8.6 billion, while the number of workers benefitted increased to over 600 thousand. On average, the worker-to-benefit ratio in 2016 was about PHP 207 thousand; in 2019 over PHP 35 thousand; and in 2020 about PHP 14 thousand. The ratio of case disposed to worker benefitted (case-to- worker) was about 1:2 in 2016, 1:6 in 2019, and 1:13 in 2020.

Table 1. Overall performance indicators of LDR agencies, Project SpeED, 2016-August 2021

INDICATOR	2016	2017	2018	2019	2020	Aug 2021
Over-all Disposition Rate	**91.11%**	**88.43%**	**89.58%**	**88.90%**	**91.46%**	**80.97%**
Net Total Cases Handled	66,872	69,607	91,870	87,783	51,863	28,667
Cases Disposed	60,925	61,552	82,296	78,039	47,435	23,212
Over-all Monetary Benefits/Workers Benefitted						

INDICATOR	2016	2017	2018	2019	2020	Aug 2021
Monetary Benefits (in pesos)	26,197,848, 649.00	12,388,673, 635.47	12,455,410, 089.37	16,101,750, 195.93	8,601,371, 220.21	3,720,736, 641.74
Workers Benefitted	126,131	160,419	278,321	449,110	610,826	54,818

Source: Planning Service, DOLE

The administrative LDR agencies have a statutory period of 30 days or one month to dispose of cases. In arbitration, this is reckoned from the time the case is submitted for resolution. In conciliation it is in reference to the entire LDR process from the time the case is filed until settled, or what is referred to as process cycle time (PCT). In relation to arbitration, whether in the exercise of original or appellate jurisdiction, approximately one-third of all respondents in the stakeholders' survey said that cases were resolved within the 30-day period, and approximately one-fourth said that cases were resolved beyond 30 days but within six months.

Using the 30-day period as an objective standard to determine whether or not disposition is delayed, a net differential of around 8.3% (100% of annual caseload over 12) between total cases handled and cases disposed or a disposition rate of above 91.7% would, at least mathematically, mean the status of cases is current (i.e., no delayed disposition). A higher rate would put the agency in a position to reduce and totally eliminate any case backlogs.

Discounting the 2021 data which does not cover the whole year, the overall disposition rate of all the LDR agencies came close to achieving this rate in 2016 and 2020. It should be noted, however, that individual agencies have wide variances and some of them have disposition rates way below 91.7%.

3.3.3. Efficiency of individual LDR agencies and specific LDR approaches

a) The NLRC

The agency accounting for the highest caseload is the NLRC (**Table 2**). In 2016, its net total caseload was 42,152 cases, with 41,701 (98.9%) disposed. In 2019, net total caseload increased to 53,122 cases, with 52,764 (99%) disposed. With the pandemic, net total caseload decreased to 30,244 cases in 2020 and 17,619 cases as of August 2021, with 28,016 (92.6%) and 16,433 (93.3%) cases disposed respectively.

Monetary benefits awarded reached a high of over PHP 9.96 billion in 2019 with 69,470 workers benefitted, or an average worker-to-benefit ratio of PHP 143 thousand. In 2020, monetary benefits awarded went down to about PHP 6.4 billion with 34,622 workers, translating to a higher worker-to-benefit ratio of about PHP 184 thousand. The ratio of case disposed to worker benefitted (case-to-worker) was almost 1:1, that is, 6 workers for every 5 cases from 2019 to August 2021. This confirms that most cases filed with the NLRC are individual disputes.

Table 2. Performance indicators of NLRC, Project SpeED, 2016-August 2021

INDICATOR	2016	2017	2018	2019	2020	Aug 2021
Disposition Rate	**98.93%**	**99.62%**	**98.61%**	**99.33%**	**92.63%**	**93.27%**
Net Total Cases Handled	42,152	43,434	49,455	53,122	30,244	17,619

INDICATOR	2016	2017	2018	2019	2020	Aug 2021
Cases Disposed	41,701	43,269	48,770	52,764	28,016	16,433
Monetary Benefits (in pesos)		9,264,185, 417.24	9,436,362, 155.43	9,962,340, 787.41	6,401,249, 836.36	2,534,466, 556.75
Workers Benefitted		47,553	60,015	69,470	34,622	19,408

Source: Planning Service, DOLE

Based on the reported disposition rates, the status of cases in NLRC appears to be mathematically current, even during the pandemic. The agency appears to have the institutional capacity to accommodate a gradual increase in case volume. Among the major factors that may have put the NLRC in this position include its specialized mandate which is focused solely on settling or resolving cases that are filed before it; amendatory legislations increasing the number of divisions in the Commission and providing for the positions of Commission attorneys to assist them; and quotas for monthly case disposition per labor arbiter and commissioner. According to some informants, the institutionalization of the SEnA program may have contributed in some way. However, this assessment did not find specific basis to establish a direct correlation.

b) Enforcement and inspection agencies

The agency with the second highest caseload, accounted for in the administrative data under BWC, is enforcement and inspection done through the Regional Offices and the DOLE Secretary. In 2016, net total caseload was 20,770 cases, with 15,744 (75.8%) disposed. In 2019, net total caseload increased to 30,011 cases, with 21,113 (70.3%) disposed. In 2020, net total caseload decreased to 16,450 cases, with 15,271 (92.8%) disposed. The administrative data does not disaggregate caseloads and disposition rates at the Regional Director and DOLE Secretary levels.

From 2019 to 2020, caseload decreased but the number of workers benefitted increased from 368,638 to 565,077. The total amount of monetary benefits awarded also increased from PHP 1.442 billion to PHP 1.622 billion, although the average worker-to benefit ratio decreased from PHP3,912.00 to PHP 2,870.00. As of August 2021, caseload decreased further to 6,742 cases, with 4,596 (68%) disposed.

With a lower caseload in 2020, case disposition rate mathematically reached current status. However, this is obviously due to the much lower caseload. In terms of actual cases disposed, the 2020 performance is even lower than in 2016. In 2021 when caseload was much lower, the disposition rate dropped to its second lowest since 2016. Further, cross-checking the data with the status of cases published in the website of BWC consisting of about 1009 cases,[103] it appears that at the level of the DOLE Secretary, many appealed cases dating back to 2018 have not yet been resolved, with case status indicated as "For drafting" or "For Signature." These indicators point to serious delays and backlogs in the resolution of disputes arising from inspection and enforcement.

Also inviting attention are the case-to-worker and worker-to-benefit ratios. On average, each case disposed benefitted about 7 workers in 2018, about 17 in 2019, about 37 in 2020, and about 6 in 2021. This suggests that the establishments inspected were small and getting smaller.

[103] As of January 22, 2022, at https://bwc.dole.gov.ph/cases, accessed February 27, 2022.

Further, average worker-to-benefit ratio is below PHP 5 thousand, which is within the range of small money claims.[104]

Table 3. Performance indicators of the labor inspectorate/BWC, 2016-August 2021

INDICATOR	2016	2017	2018	2019	2020	Aug 2021
Disposition Rate	**75.80%**	**64.09%**	**76.04%**	**70.35%**	**93.12%**	**68.17%**
Net Total Cases Handled	20770	20,364	35,128	30,011	16,400	6,742
Cases Disposed	15,744	13,051	26,710	21,113	15,271	4,596
Monetary Benefits (in pesos)		614,982, 941.23	1,487,990, 584.94	1,442,207, 342.30	1,622,090, 138.23	332,021, 512.63
Workers Benefitted		95,735	202,938	368,638	565,077	27,059

Source: Planning Service, DOLE

Interestingly, the number of establishments inspected presents a contrasting trend, with the number increasing during the pandemic. In 2016, DOLE reported to have inspected 30,232 establishments. This increased to 70,298 in 2019. In 2020, some 86,537 establishments were inspected, while as of August 2021, some 77,695 establishments were inspected. The numbers in 2020 and 2021 are qualified with the footnote that it includes "data on OSH Covid monitoring."[105] Considering that onsite inspection activities were suspended for much of the pandemic period, it is possible that there was really no increase in actual inspection. The increase may simply be attributed to submission of reporting requirements on the adoption of OSH protocols pertaining to Covid-19.

c) Conciliation and mediation under SEnA and NCMB and related processes

For conciliation and mediation under the SEnA program which are recorded as requests for assistance (RFAs) and not yet formally docketed as labor disputes, the number of RFAs increased from 24,728 RFAs handled with 18,860 (76%) RFAs settled in 2016, to 54,999 RFAs handled and 42,345 (77%) RFAs settled in 2019. In 2020, this decreased to 26,587 RFAs handled with 18,333 (71%) RFAs. As of August 2021, RFAs handled increased again to 30,616 with 22,272 RFAs settled.

The amounts of settlement and number of workers benefitted appears to have increased during the pandemic, or at least in 2020. In 2016, total monetary settlements were over PHP 761 million with 23,390 workers benefitted, or an average worker-to-benefit ratio of about PHP 32,500. In 2019, total monetary settlements were over PHP 2.202 billion with 67,968 workers benefitted, or a slightly lower worker-to-benefit average of about PHP 32,400. In 2020, total monetary settlements decreased to PHP 1.884 billion with 30,639 workers benefitted, or a higher per capita average of about PHP 61,500.

RFAs under SEnA have been increasing almost exponentially within a very short period. The reported disposition rates have remained below 80% since 2016. This can be an early sign that the program is susceptible to case clogging. Since conciliation and mediation is a preferred mode of dispute prevention and resolution, policy makers may need to assess the case inflow in relation to the administrative capacity of LDR agencies to effectively implement the SEnA.

[104] LCP, Article 129.
[105] Sourced from Labor-Related Data compiled by Planning Service, DOLE.

Notably, the SEnA law was passed without corresponding additional personnel. The officers who perform conciliation functions under the program do so in an *ad hoc* capacity and not as a specialized and regular function.

Table 4. Performance indicators of SEnA, all agencies: Labor-Related Data, 2016-August 2021

INDICATOR	2016	2017	2018	2019	2020	2021
Settlement Rate	**76%**	**72%**	**75%**	**77%**	**71%**	**73%**
• RFAs Handled	24,728	57,751	59,927	54,999	26,587	30,616
• RFAs Settled	18,860	41,437	44,893	42,345	18,883	22,272
Monetary Award (in pesos)	761.380 M	1.629 B	1.887 B	2.202 B	1.884 B	952 M
Workers Benefitted	23,390	54,170	58,937	67,968	30,639	30,209

Conciliation and mediation of collective disputes based on bargaining deadlocks, unfair labor practice and grievances that are not resolved through enterprise level mechanisms are the specialized functions of the NCMB. A labor dispute enters the NCMB via a notice of strike filed by the union, a notice of lockout filed by the employer, or a notice of preventive mediation by either or both parties. In practice, it is rare that an employer files a notice of lockout.

From 2016 to 2019, notices of strikes and lockouts almost doubled. With the pandemic, this went back to approximately the 2016 level. Settlement rates were in the range of 71-77%. On the other hand, preventive mediation cases were highest in 2018 at 528 cases. With the pandemic in 2020, the number of cases went down to 339 cases, which is lower than that of 2016. Settlement rates were in the range of 87% to 90%.

Labor disputes in NCMB, being collective disputes, always involve groups of workers. The case disposed-to-worker ratio was about 1:28 in 2016: 1:49 in 2019; and 1:66 in 2020. The amounts of settlements per case were about PHP 4 million in 2016, PHP 26 million in 2019, and PHP 2.6 million in 2020. The data suggests that the disputes which NCMB handled from 2016 to 2020 did not involve large unions or groups.

Table 5. Performance indicators of NCMB: Labor-Related Data, 2016-August 2021

Programs	2016	2017	2018	2019	2020	Aug 2021
Notice of Strikes/ Lockouts (settled/ handled)	82 /133	149 /185	177 /233	176/257	96/130	77/114
• Settlement Rate	62%	81%	76%	68%	74%	68%
• Monetary award	₱335.388M	₱1.820B	₱1.377B	₱4.625B	₱259.097M	₱427M

Programs	2016	2017	2018	2019	2020	Aug 2021
• Workers benefitted	2,242	13,878	12,325	8,646	6,365	2,766
Preventive Mediation (Settled/ handled)	394/449	458/526	448 /499	474 /524	295 /339	275 /321
• Settlement Rate	88%	87%	90%	90%	87%	86%
• Monetary award	₱28.325M	₱367.711M	₱148.723M	₱64.207M	₱220.417M	₱427M
• Workers benefitted	3,824	2,568	3,034	2,069	2,543	5,565
Actual Strikes/ Lockouts (disposed/ handled)	9 /15	15/15	11/14	15/21	10/11	0
• Disposition Rate	60%	100%	79%	71%	91%	0
• Monetary award	₱26.945M	₱322.008M	₱459.541M	₱5.789M	₱49.486M	-
• Workers benefitted	211	690	476	262	773	-

The other types of collective disputes that are closely related to those handled by NCMB are med-arbitration cases and voluntary arbitration cases. Med-arbitration cases are handled by med-arbiters, the BLR and the DOLE Secretary. These are mostly representation disputes in the form of petitions for certification election to determine whether a union is to be certified as the sole and exclusive bargaining agent of the workers it seeks to represent. There were 452 such cases handled in 2016 and 437 in 2019. During the pandemic, the number decreased to 260 in 2019 and 256 as of August 2021. Disposition rates from 2016 to 2019 were mathematically current, but went down to above 82% in 2020. According to BLR informants, this was largely due to the restrictions imposed during the pandemic which made it impossible to conduct certification election proceedings in some areas. Considering the historically low volume of med-arbitration cases, the disposition rate is expected to reach current status as the restrictions are lifted.

The importance of speedy disposition of med-arbitration cases cannot be overemphasized. Resolution of these cases, particularly petitions for certification election, are enabling steps toward collective bargaining. The stakes are high if such disputes are not resolved immediately, particularly for workers. First, workers will not be able to exercise their legal right to collective bargaining. Consequently, the parties will not be in a position to fulfill the policy objective of regulating the terms and conditions of employment by themselves, including sharing the responsibility for dispute resolution. Second, an unresolved representation issue can trigger other disputes that can involve other LDR agencies, such as a petition for cancellation of union registration filed with the DOLE Regional Office, or a notice of strike on the ground of unfair labor practice filed with the NCMB, or a complaint for unfair

labor practice with the NLRC. Delay thus impacts on the efficiency and effectiveness of the LDR system as a whole.

In relation to voluntary arbitration, jurisdiction is of two types. The first is mandatory jurisdiction over collective disputes in unionized enterprises, particularly those involving implementation or interpretation of a CBA or company policy. The second is the purely voluntary type, through which the parties may agree to submit any labor dispute to voluntary arbitration. In practice, only the mandatory type of voluntary arbitration services is availed of by parties coming from unionized enterprises with CBAs. With low union density and low collective bargaining coverage, the number of cases over which the mandatory jurisdiction of voluntary arbitration may be exercised is consequently limited.

In 2005, the Standard Employment Contract for Seafarers issued by the Philippine Overseas Employment Administration was amended, re-channeling the jurisdiction to resolve compensation claims of seafarers covered by CBAs from the NLRC to voluntary arbitration. In some of its reports, NCMB now categorizes voluntary arbitration cases into those emanating from CBAs in enterprises operating within the Philippines (land-based) and those emanating from CBAs covering seafarers in ocean-going vessels (sea-based or maritime cases).

NCMB's 2020 Annual Report shows that there were 1,337 total land-based and maritime cases handled through voluntary arbitration that year.[106] About 857 cases were disposed by decision while 594 cases resulting in total monetary awards of about PHP 2.128 billion benefitting 733 workers. This translates to an average worker-to-benefit ratio of about PHP 2.9 million, the highest average ratio among all LDR agencies. This is directly due to the fact that a significant number of voluntary arbitration cases now involve employee compensation claims filed by seafarers in ocean-going vessels. In this type of cases, the awards can range anywhere from USD 60 thousand to USD 120 thousand (approximately PHP 3 million to PHP 6 million).

Since decisions in voluntary arbitration are not subject to administrative appeal and are supposed to be final, the LDR cycle is expected to be shorter and less expensive. But since the implementation of the current law in 1989, only the mandatory type of voluntary arbitration has been utilized. The number of voluntary arbitration cases in 2020 and 2021, which were the highest ever recorded, is only roughly 3% of the cases that are filed with the NLRC and less than 2% of all cases filed. In 1996, there were 304 land-based cases, the highest ever recorded in this category, and no maritime cases. In 1998, land-based cases dropped by about 25%, mirroring the permanent closures of unionized establishments as a result of the 1997 Asian financial crisis. Since 2003, the number of land-based cases has been going down, with virtually no maritime cases resolved through voluntary arbitration. In 2005, land-based cases continued to go down, while maritime cases exponentially went up directly as a result of the amendment of the Standard Employment Contract for seafarers. At present, 95% of all voluntary arbitration cases are maritime cases involving seafarers' compensation claims. It can also be observed that disposition rates of voluntary arbitration cases (68% in 2020 and 78% in 2021) are not better than in compulsory arbitration.[107]

[106] The analysis in this paragraph is based on the 2020 Annual Report. A later NCMB Report presented to the Philippine Association of Voluntary Arbitrators shows that in 2020, a total of National rendered to the shows a total of 877 cases handled in 2020 and 1277 cases handled in 2021. The figures in both the earlier and later reports were the highest ever recorded since the voluntary arbitration program was institutionalized in 1989.

[107] The discussion in this paragraph is based on the NCMB Report to the Philippine Association of Voluntary Arbitrators.

3.3.4. Disposition of cases in the courts: stakeholders' perceptions

In relation to efficiency of case disposition in courts, the standard applicable to the judiciary is in the Constitution. For the Supreme Court, all cases must be decided or resolved within twenty-four months from date of submission for decision or resolution; for all lower collegiate courts within twelve months (including the Court of Appeals where decisions of the LDR agencies may be elevated); for all other lower courts within three months. A case shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief, or memorandum required by the Rules of Court or by the court itself.[108]

Stakeholders affirm the important role of judicial review in the Constitutional order. Their main concern is that when an arbitration decision is elevated to the Court of Appeals and to the Supreme Court, each level of the judicial process will entail additional time and costs before a dispute is finally resolved and the arbitration decision is fully enforced or executed.

Among the stakeholders with experience on cases that reached the courts, 27% of workers said these were resolved within one year, compared to 8% of employers and government. About 23% of employers said the cases were decided within 1-2 years, 15% within 2-3 years, and 31% beyond three years. Notably, 41% of workers and 49% of government said that this question was not applicable to them, indicating that a significant percentage of decisions at the arbitration level are no longer elevated to the courts. On the other hand, only 23% of employers found this question not applicable, indicating that employers are more likely than workers to question arbitration decisions in the courts.

3.4. Effectiveness of the LDR system

3.4.1. General parameters

Effectiveness means the system has institutions that are relevant and appropriate, staffed by officials with sufficient authority, status, administrative and technical capacity to perform their functions, and ensure the rights of the parties to participate in the LDR process. With effective institutions come effective outcomes. Thus, the system should be seen to ensure adherence to the rule of law; apply objective standards of justice, due process and fairness; and deliver labor justice with settlements and decisions that are promptly implemented or enforced.

As a general observation, the relevance of the system cannot be questioned. Conflicts are inevitable in work relationships and parties need LDR agencies as necessary mechanisms to deliver labor justice. The caseload speaks for itself. Discounting the pandemic years, year-on-year caseload and case disposition especially on arbitration of individual rights disputes has been consistently increasing. The tangible outputs of the system in terms of case disposition and total amount of monetary reparations awarded are also increasing. Union and collective bargaining activities continue to decline, thereby limiting the potential of bipartite dispute settlement or resolution and, conversely, increasing reliance on State-provided mechanisms.

The effectiveness of the system generally draws from what are considered to be its main strengths. First, it has been designed to progressively operationalize the Constitutional and statutory mandate of promoting shared responsibility of the parties and voluntary modes of LDR, with administrative mechanisms as the primary avenue of State intervention. It is consistent with the sequential principles of LDR that is typical in modern industrial relations systems. Second, substantive laws defining the rights, obligations and remedies of parties are

[108] Constitution, Article VIII, Section 15 (1) and (2).

comprehensive and well-developed. These are complemented by detailed rules of procedure that enable users to access and use the system. And third, the agencies performing LDR functions are highly institutionalized and specialized and are performed by officers with the appropriate qualifications and stature commensurate to the importance of their functions. The first two have been covered in earlier parts of this assessment. A short discussion of the third follows below.

3.4.2. Institutional effectiveness: authority and stature of LDR officials

The level of authority, capacity and status of LDR officers is a major determinant of their effectiveness. Except voluntary arbitrators, all LDR officials are full-time public servants with specialized qualifications. The positions they occupy are at the higher scale of the bureaucracy's standardized position classification and compensation structure. Many of them are appointed by the President of the Philippines. Except the DOLE Secretary, LDR officials are non-political, career officials who enjoy security of tenure.

The DOLE Secretary, directors of BLR, BWC, Regional Offices and Legal Service are appointed by the President of the Philippines. Qualification standards approved by the Civil Service Commission are also prescribed for specific positions. For example, the BLR director must be a lawyer for at least 5 years and must have at least 5 years labor-management relations experience; a regional director must have at least 5 years management experience; a med-arbiter must be a lawyer for at least 3 years with at least 3 years of labor-management relations experience; inspectors performing technical inspection must be college degree holders with the appropriate professional license from the Professional Regulation Commission, at least 3 years relevant experience, and must have completed mandatory training and accreditation; and conciliators assigned to the SEnA desks must at least be college degree holders and must have undergone mandatory training on LDR before they can assume their functions.

The labor arbiters and commissioners of the NLRC are appointed by the President of the Philippines. For commissioners, they have to be nominated by government, workers or employers' organizations. All of them must satisfy minimum qualifications set in the Labor Code. The chairman and commissioners must be members of the bar for at least 15 years, with at least 10 years labor-management relations experience. The labor arbiters must be members of the bar for at least 10 years, with at least 5 years labor-management relations experience. Their salaries, benefits and emoluments are also prescribed in the Labor Code and benchmarked with the Judiciary.[109]

Appointed by the DOLE Secretary, NCMB conciliators and mediators must at least be degree holders with 5 years labor-management relations experience.

In terms of salary grades, LDR officials are covered by the standardized position classification and compensation structure applicable to national government agencies. There are 33 Salary Grades (SGs) in the standardized structure, with SG 33 as the highest grade assigned to the President of the Philippines. As can be seen in **Table 6**, most of the LDR officials belong to the higher quartile of the standardized position and compensation salary scale. This gives them the level of authority and stature commensurate to the importance of their functions.

[109] ___, Articles 222 [215] and 223 [216].

Table 6. Comparison of Salary Grades: LDR officials with other key government officials

SGs of Key Government Officials	SGs of Administrative LDR Officials
SG 33. President of the Philippines.	____
SG 32. Vice-President; Senate President; Speaker of the House of Representatives; Chief Justice of the Supreme Court.	
SG 31. Cabinet Secretaries (Ministers); Senators; Associate Justices of the Supreme Court; Presiding Justice of the Court of Appeals.	**SG 31.** DOLE Secretary; Chair of NLRC.
SG 30. Undersecretary of a national government department; Associate Justice of the Court of Appeals; Prosecutor General	**SG 30**. Commissioners, NLRC; Administrator, POEA.
SG 29. Assistant Secretary of a national government department; Regional Trial Court Judge.	**SG 29**. Administrator, NCMB; Labor Arbiter, NLRC; Executive Director, ECC.
SG 28. Municipal Trial Court Judge	**SG 28**. Director, BLR; Director, BWC; Regional Directors, DOLE
SG 27. Assistant Regional Director of a national government department; Assistant State Prosecutor II	**SG 27**. Director, Legal Service, DOLE; Commission Attorneys, NLRC.
SG 26. Assistant State Prosecutor (entry level)	**SG 26**. Director, Field/District Office under DOLE Regional Office; Director, Regional Branches, NCMB.
	SG 25. Conciliators/Mediators, NCMB; MedArbiters, BLR and Regional Offices
SG 19-22. Senior to Supervising Technical Officer of a national government agency	**SG 19-22.** Others performing conciliation and mediation in SEnA desks and enforcement/labor inspection functions.

In relation to voluntary arbitration, any private citizen with interest and experience in labor-management relations may become a voluntary arbitrator after undergoing a process of accreditation administered by the NCMB. This process includes endorsement of the person by labor and employer organizations and a qualifying examination, although exceptions are made in certain cases. After accreditation, the voluntary arbitrators are provided with trainings on procedures, decision-writing and updates on relevant jurisprudence. The current corps of voluntary arbitrators include retired DOLE officials and judges, as well as academics, law and industrial relations practitioners, and trade union officers.

3.4.3. Procedural effectiveness: stakeholders' experiences

The IRRs of all LDR agencies incorporate behavioral and technical standards meant to promote the fair and orderly conduct of proceedings. These include periods within which to call for conferences and to settle the issue, limitations as to number of conferences to be called,

professional conduct and decorum, and overall control of the proceedings. Observance of these standards are instructive indicators of effectiveness as well as efficiency.

In the stakeholders' survey and key informants' sessions conducted as part of this assessment, almost all government respondents say that all standards are followed. Workers and employers are more critical, with variances depending on the LDR approach used. Below is a summary of the relevant responses.

- In relation to conciliation, including SEnA, most workers and employers say that the prescribed period of 10 days within which to call for conferences, and notification of the parties at least three days prior to the conference were observed. However, punctuality in starting with conferences were followed less than 50% of the time.
- In relation to handling of cases, all IRRs require that the LDR officer concerned handle the conferences personally. Of the government respondents, 80% but not all say that they did so all the time. About 45% of workers and 55% of employers responded that the LDR officer handled their cases personally.

  The responses here raise a serious concern. The reason why there is a specific provision on personal handling is to address the practice of arbiters to delegate or assign the conduct of hearings and conferences to their assistants. Non-observance of the rule impairs accountability of the proceedings.
- In relation to conciliation and mediation, worker and employer respondents appear to be moderately to less than moderately satisfied in the way the concerned officers conduct the proceedings. In half of cases, proceedings lasted no longer than 30 minutes. Between 45-55% of workers and 55-70% of employers say that at all times, the conciliators explained the nature and purpose of the proceeding to the parties in a simple and understandable manner; allowed parties or their counsels/advisers adequate time to present their case; asked appropriate clarificatory questions; encouraged the parties to agree on the facts; did not show any partiality or bias; helped the parties define the issues; guided the parties in exploring all options for a possible settlement through conciliation and mediation but ensured that conciliation and mediation did not exceed thirty (30) days; spoke to the parties in a firm and respectful manner; shared knowledge and familiarity with the subject of the request for assistance; documented the proceedings properly and drafted the settlement in consultation with the parties; informed the parties in a language understood by them of the content and implications of the settlement; and supervised or monitored the faithful implementation of the settlement.

3.4.4. Substantive effectiveness: outputs, outcomes and stakeholders' views

a) On outputs

Conciliation and mediation at any stage should result in complete or at least partial settlement. Arbitration should result in a decision that completely resolves all issues, without prejudice to a settlement or compromise agreement that may be arrived at by the parties during the arbitration process.

In conciliation and mediation, whether through SEnA, conciliation in NCMB, or as part of arbitration proceedings, 25% of workers said cases were terminated with full settlement and without further referral to other agencies, compared to 54% of employers and 56% of government. On the other hand, 22% of workers, 31% of employers and 14% of government said conciliation was terminated with partial settlement, with the remaining issues referred to

other appropriate LDR agencies. Across the three groups, less than 8% of cases processed through conciliation did not result in any settlement and were instead referred to the appropriate agency. This seems to validate the usefulness of conciliation at any stage of the LDR process.

Key informants from the labor and employer sectors have generally favorable reviews of conciliation and mediation.

An employer informant noted that in SEnA, the approach provides parties a wider leeway to agree on preventive measures. Also, SEnA is equally accessible to workers and employers without having to raise technical issues of jurisdiction. He recalled an instance when a company requested SEnA assistance in implementing a restructuring and redundancy program. With the attestation of the conciliator, separation pay was paid to all employees who thereafter executed quitclaims, thus eliminating the possibility of an illegal termination case.

Key informants from both sectors also support the concept of SEnA but expressed concern about duplication of conciliation processes because of it, or what one described as "double or multiple SEnA." This happens when SEnA does not produce a settlement and the dispute has to be referred to the appropriate agency, which will conduct another round of SEnA. If this does not result in settlement and the dispute is elevated to arbitration, there is also a mandatory conciliation conference embedded in the arbitration process. One labor sector informant suggested that the scope of SEnA can be refined further, arguing that it is inappropriate for resolving issues involving trade union organizing.

From within the LDR agencies involved in SEnA, conciliators concede that in many instances, RFAs turn out to be simple queries or requests for information which can be responded to simply by providing appropriate information or counselling rather than by providing conciliation services.

b) On outcomes

A settlement is effective upon its execution by the parties, while a decision becomes final and executory after ten 10 days from receipt of a copy thereof by the concerned party. A dispute may be reported to have been settled or disposed, thereby improving the disposition rate. But it does not mean that the dispute has actually been closed and terminated. Whether a dispute is resolved through a settlement or a decision, the real test of effectiveness is its actual and faithful implementation.

DOLE's administrative monitoring reports do not have indicators on how many settled or decided cases are actually implemented. Many settlements and decisions encounter delays in implementation, if they are implemented at all. Thus, they stay within the LDR system without effectively repairing or correcting established violations. In the stakeholders' survey, the respondents were asked about what happens after a case involving a monetary claim is settled or decided. Below is a summary of the responses.

- In settlements, payment of the amount immediately upon the execution of the settlement in the presence of the authorized officer was indicated by 27% of workers, 38% of employers, and 55% of government. About 31% of workers and employers said the amount was paid after the settlement conference, with the parties subsequently submitting a release and quitclaim to the handling LDR officer. About 16% of workers said that implementation of the settlement still required the issuance of a writ of execution.
- In cases that were resolved by decision through arbitration by LDR officers exercising original jurisdiction, the original decision is more likely to be appealed. About 57% of workers, 54% of employers, and 59% of government respondents

said that the decisions were appealed sometimes or most of the time. Appeals within the administrative layer are recognized legal remedies. But inevitably, they also stretch the time before a decision can be implemented.

- In cases involving monetary awards resolved through decisions, whether by LDR agencies or by the courts, about 51% of workers, 44% of employers, and 47% of government said that the decisions were complied with voluntarily or mostly voluntarily. Some required the issuance of a writ of execution. On the other hand, 20% of workers, 23% of employers and 30% of government said that implementation required the issuance of writs of execution all the time or most of the time.

The responses show that a significant percentage of decisions and even settlements still require the issuance of writs of execution before these are implemented. A labor sector informant expressed two major concerns. One is the length of time it takes for a writ of execution to be issued. There are instances where winning parties find themselves holding an empty bag because the company has closed. The other is the cost of execution. In the case of the NLRC, execution and other fees are prescribed by the Commission.[110] But it is also claimed that in some instances, there are "hidden" fees that are paid to sheriffs during service of the writ of execution.

3.4.5. Rule of law: predictability, consistency and quality of decisions

There is no existing metric for adherence to the rule of law and predictability, consistency and quality of decisions. The proxy metrics can be the immediate implementation, enforcement and satisfaction of a decision, as discussed in the previous section. Another that can be considered is the rate of affirmation of appealed decisions.

The most common subjects of labor disputes are illegal termination of employment and non-compliance with general labor standards and working conditions, such as underpayment of wages, non-observance of the rules on working hours, and non-payment or underpayment of wage-related benefits such as overtime, rest day and holiday pay. The laws, standards and procedures on these matters are comprehensive and are publicly-available. There is also a wealth jurisprudence on how these are applied. With all these, levels of voluntary compliance should be high. However, the continuing high incidence of disputes arising from these matters suggests that adherence to the rule of law by the parties is far from ideal.

In actual disputes, agencies within and between the administrative and judicial layers of LDR are expected to be predictable and consistent in their decisions. DOLE's administrative data monitors total and net agency caseload but do not include rates of affirmation, modification, or reversal. From anecdotal accounts of key informants and DOLE insiders, it is said that in NLRC, about 60% of decisions of labor arbiters are affirmed by the Commission, and more than 60% of the Commission's decisions are affirmed by the Court of Appeals. In DOLE, decisions of the DOLE Regional Offices in enforcement and inspection cases are rarely reversed by the DOLE Secretary. Decisions of med-arbiters and the Regional Offices on disputes arising from trade union activities are mostly affirmed by the BLR and the DOLE Secretary. In voluntary arbitration, about 50% of decisions are elevated to the Court of Appeals in spite of the rule that these are intended to be binding and not subject to an appeal. Notably, 38% of appeals resulted in full affirmation and the rest either modification, reversal, settlement, withdrawal or remand of the voluntary arbitrators' decision.[111]

[110] NLRC *En Banc* Resolution No. 14-13.
[111] Based on the NCMB Report to the Philippine Association of Voluntary Arbitrators.

The sampling of Supreme Court decisions offers an objective glimpse of the subject matter of cases that go through the administrative and judicial layers of LDR, the length of time it takes for disputes to be resolved, and the rate of affirmation or reversal of decisions, resolutions and awards coming from the administrative layer.

In can be observed that in the cases originating from the NLRC, the affirmation rate of decisions of i) labor arbiters by the Commission hovers around 50%; ii) the Commission by the Court of Appeals around 60%; and iii) the Court of Appeals by the Supreme Court around 50%.

On voluntary arbitration, a majority of decisions were reversed or modified by the Court of Appeals. However, of the final decisions or resolutions of the Court of Appeals that reversed the voluntary arbitrators, a large majority were also reversed by the Supreme Court. In the cases reaching the Supreme Court, the original decision of the voluntary arbitrator was either fully or partially reinstated.

From the affirmation and reversal rates of the decisions in the sample, one cannot draw a conclusion that there is a high level of consistency and predictability among the LDR agencies. Reasonable variances in decisions are part of the dynamic process of dispute resolution. But frequent and wide variances or contradictions within and between the LDR layers raise a rule of law problem and can undermine confidence in the system. It also reinforces the perception that in spite of their qualifications and rank in the LDR hierarchy, quasi-judicial officers still need to continuously upgrade their technical knowledge and competence, particularly in establishing findings of fact, evaluation of evidence, and application of relevant jurisprudence.

3.4.6. Structural effectiveness

The structure of the administrative LDR system is complex, with agencies having their specialized areas of jurisdiction and competence and providing various types of remedies and reliefs. There are policy objectives that are met by having several highly specialized structures. But there is also a downside. Complexity can result in duplication of processes, split causes of action, engender multiplicity of suits, fragment remedies, result in duplication of processes, or transform an otherwise simple to a litigious process. Any of these can potentially delay the effective enjoyment by the parties of their rights and the attainment of desired policy outcomes. Specific problem areas and cases illustrate this point.

One problem area relates to petitions for certification election.[112] Original jurisdiction over such petitions is with the med-arbiter. The election is supposed to be of a fact-finding and non-litigious nature where the employer is a bystander. Its sole purpose is to determine if a union has the majority support of workers so that it can represent them for collective bargaining. Conformably with the policy of the Constitution and the Labor Code, the desired outcome is to get the parties to engage in collective bargaining as soon as possible so that they can regulate their terms and conditions of employment. Under the current law, however, any party to an election may appeal to the DOLE Secretary the med-arbiter's order to hold an election as well as the order declaring the results of an election. The law allows two rounds of appeal - first on the order to hold an election and second, on the order certifying the results. In both instances, the decision of the DOLE Secretary resolving the appeal can also be elevated for judicial review.

In one case, a union filed a petition for certification election with the med-arbiter sometime in 1990. The employer opposed, raising the issue of improper constituency of the bargaining unit and eligibility of certain workers to be included therein. The med-arbiter promptly granted the petition and ordered the conduct of a certification election. The employer

[112] See LCP, Articles 267 [255] – 272 [259].

appealed to the DOLE Secretary who affirmed the med-arbiter's order. The employer exhausted its legal remedies until the Supreme Court which, in 1997, affirmed the order of the med-arbiter.[113] Thereafter, the election was finally conducted. The med-arbiter certified the results and declared the union as having acquired sole and exclusive bargaining agent status. But the employer again appealed to the DOLE Secretary. Unsuccessful, it exhausted its legal remedies until the Supreme Court. In 2011, the Supreme Court affirmed the med-arbiter's certification of the union as the sole and exclusive bargaining agent. Making reference to its earlier ruling in 1997, it ruled that "the Court writes *finis* to the issues raised so as to forestall future suits of similar nature."[114] But by then, the union had ceased to exist.

Another problem area is the fragmentation of remedies, splitting of causes of action, and multiplicity of suits.[115] It can happen that several cases are filed in different LDR agencies with specialized jurisdictions, although the matters raised may involve the same parties, arise from the same set of facts, and require the application of clear and closely intertwined provisions of law.

A case initiated in 2002 illustrates this problem. The union involved in that case, having been certified by the med-arbiter as the sole and exclusive bargaining agent, submitted its bargaining proposals to the company. But instead of responding, the company filed a petition to cancel the union's registration in the DOLE Regional Office. In response, the union filed a notice of strike with the NCMB on the ground of refusal to bargain (an unfair labor practice). It also filed a similar complaint for unfair labor practice with the labor arbiter in the NLRC. The DOLE Regional Office subsequently dismissed the petition for cancellation. The employer then appealed to the BLR which, sometime in 2003, dismissed the appeal. The employer then questioned the BLR's decision through a petition filed with the Court of Appeals. In 2004, the labor arbiter dismissed the ULP case in the NLRC for being premature in view of the pendency of the Court of Appeals case. Thereafter, the union again submitted its bargaining proposals but the company again did not respond. Consequently, the union revived the unfair labor practice case with the labor arbiter. Later in 2004, the Court of Appeals eventually dismissed the petition questioning the BLR's decision to deny the cancellation of the union. In 2008, the labor arbiter again dismissed the unfair labor practice case. This was appealed to the NLRC which, in 2010, affirmed the dismissal of the complaint. The union then filed a petition for review of the NLRC's decision with the Court of Appeals. In 2011, the Court of Appeals reversed the NLRC and ruled that the company was guilty of unfair labor practice for refusing to bargain. The Court of Appeals did not give credence to the argument of the company that the case had been rendered moot and academic in view of the supervening event of the dissolution of the union. Accordingly, the employer filed a petition for review of the Court of Appeals decision with the Supreme Court. In 2021, the Supreme Court reversed the Court of Appeals and ruled that indeed, the amended complaint for unfair labor practice had become moot because the union had been dissolved, with some of its members having been promoted or having been separated from the company.

It can be seen that the issues in the above disputes are not complicated. Technically, all the remedies employed in the two cases appear to be within the literal meaning of the law. But the legal maneuvers also exposed the vulnerability of the system to being gamed, and kept the cases within the LDR system for all of 20 years. Invocation of these remedies through several

[113] *San Miguel Corporation Supervisors and Exempt Union v. Laguesma, G.R. No. 110399, August 15, 1997.*
[114] *San Miguel Foods, Inc. v. San Miguel Supervisors and Exempt Union, G.R. No. 146206, August 1, 2011.*
[115] *New World International Development v. New World Renaissance Hotel Labor Union, G.R. No.197889, July 28, 2021.*

agencies had the effect of throwing a monkey wrench on attaining the policy objective of the law, which is to ultimately get the parties to engage in collective bargaining.

3.4.7. Interaction of administrative and judicial layers

There are three major issues arising from a petition for judicial review. First is the rule on hierarchy of courts, or where a petition should first be filed. Second is the rule on judicial courtesy, or the effect of filing a petition with the court to review an administrative decision that had become final and executory. The third is the net effect in terms of additional time and costs that judicial review entails not only on the petitioning party but also on the party who has a material interest in the immediate implementation of the decision subject of the petition.

a) Hierarchy of courts

The issue on hierarchy of courts first arose from a Supreme Court ruling involving a decision of the NLRC.[116] The Court held that following the hierarchy of courts, a petition for review of an NLRC decision should first be filed with the Court of Appeals and not directly with the Supreme Court. In particular, labor sector practitioners argue that this should not be applied to decisions of voluntary arbitrators. They argue that petitions for review of voluntary arbitration decisions should still be filed directly with the Supreme Court. Requiring a petition to go through the Court of Appeals first creates an additional and unnecessary layer in the adjudication process, thereby causing further delay.

In all the sampled decisions, the decisions of the NLRC and the voluntary arbitrators were elevated to the judicial layer first through the Court of Appeals, and then to the Supreme Court. The rule on hierarchy of courts was consistently followed and applied. Even in relation to ECC whose decisions are to be reviewed by the Supreme Court as provided for by the Labor Code, the Supreme Court has also extended the application of the principle.[117]

As judicial policies currently stand, the principle of hierarchy of courts is applicable not only to voluntary arbitration but to all final decisions, orders, or resolutions issued not only by all LDR agencies but of all judicial and quasi-judicial tribunals. The application of this principle is not expected to change, unless upon the initiative of the Court itself or through legislation.

b) Judicial courtesy

The issue on judicial courtesy arises from the effect of the filing of a petition for review with the courts. Once such a petition is filed, can the final decision, order or resolution of the LDR agency concerned be enforced or implemented? When a motion for execution of the administrative decision is filed with the LDR agency by the winning party, should the motion be granted?

As a rule, the decision, order or resolution of an LDR agency becomes final ten days after receipt thereof by the parties. Thereafter, it should be executed as matter of course, except when a restraining order or injunction is issued by a competent court. What if there is a petition filed but no restraining order or injunction is issued? Does the doctrine of judicial courtesy mean that the LDR agency should nevertheless wait for the court to act on the petition before enforcing or executing the decision? The Supreme Court has clarified that the judicial courtesy doctrine should be applied only as an exception to the rule on finality of decisions, orders or resolutions of lower tribunals:

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[116] *St. Martin Funeral Home v. NLRC and Acayos, G.R. No. 130866, September 16, 1998.*
[117] Rules of Court, Rule 43, Section 1.

"x x x. In the recent case of *Trajano v. Uniwide Sales Warehouse Club*, this Court gave a brief discourse on judicial courtesy, which concept was first introduced in *Eternal Gardens Memorial Park Corp. v. Court of Appeals*, to wit:

"x x x [t]he principle of judicial courtesy to justify the suspension of the proceedings before the lower court even without an injunctive writ or order from the higher court. In that case, we pronounced that "[d]ue respect for the Supreme Court and practical and ethical considerations should have prompted the appellate court to wait for the final determination of the petition [for certiorari] before taking cognizance of the case and trying to render moot exactly what was before this [C]ourt." We subsequently reiterated the concept of judicial courtesy in *Joy Mart Consolidated Corp. v. Court of Appeals*.

"We, however, have qualified and limited the application of judicial courtesy in *Go v. Abrogar and Republic v. Sandiganbayan*. In these cases, we expressly delimited the application of judicial courtesy to maintain the efficacy of Section 7, Rule 65 of the Rules of Court, and held that the principle of judicial courtesy applies only "if there is a strong probability that the issues before the higher court would be rendered moot and moribund as a result of the continuation of the proceedings in the lower court." Through these cases, we clarified that the principle of judicial courtesy remains to be the exception rather than the rule."[118]

The clarification is not yet incorporated in any of the rules of procedure of the administrative LDR agencies. Invoking prudence and caution presumably to avoid being held in contempt of court, administrative LDR agencies simply suspend enforcement or execution pending the court's resolution of the petition. But this approach has the effect of an injunction. It contradicts the rule that no temporary or permanent injunction or restraining order in any case involving or growing act of a labor dispute shall be issued by any court or other entity except for illegal acts or prohibited acts as defined by law.[119] Such a policy will diminish the efficacy of the protection to labor clause of the Constitution. It is therefore important for administrative LDR agencies to considering adopting a clear and uniform administrative policy on this matter.

c) Additional time, costs and delay

The sampling of Supreme Court cases in this assessment illustrates the time it takes for a labor dispute to progress from one layer of adjudication to the next, and affirms the concern of stakeholders and key informants of the length of time it takes for the full LDR cycle to finally end and for labor justice to be effectively delivered.

Of the sampled decisions that emanated from the NLRC, the following can be observed:

- Within the NLRC, it can be seen from the texts of the decisions that from the filing of the complaint, the dispute is resolved at the level of the labor arbiter usually within six months, and up to the appellate level in the Commission within two years.
- At the Court of Appeals, the duration between the final decision or resolution of the NLRC to the first decision or resolution of the Court of Appeals took anywhere between less than six months to more than four years.

[118] *Sara Lee Philippines, Inc. v. Macatlang, et al., G. R. No. 180147*, January 14, 2015, citing cases.
[119] LCP, Article 266 [254].

- At the Supreme Court, the duration between the final decision or resolution of the Court of Appeals to the first decision of the Supreme Court took anywhere from less than one year to more than ten years, with most decisions rendered between three to six years.

In relation to decisions originating from voluntary arbitration, the following can be observed:

- The voluntary arbitrator is to decide a dispute within twenty calendar days from the date these are submitted for resolution, unless the parties agree otherwise.[120] The dates when the disputes were submitted for resolution cannot be determined. But from the texts of the decisions, these were resolved between six months to one year from the time they were filed.
- Decisions of the voluntary arbitrator that were subject of petitions for review with the Court of Appeals took between one to two years to be decided. At least one case took about six years.
- Decisions of the Court of Appeals that were subject of petitions for review with the Supreme Court took between one to three years to be decided. At least one case took about seven years. In one case, it took twelve years from the time the case was decided by the voluntary arbitrator to the decision of the Supreme Court to complete both the administrative and judicial processes of LDR.

From the decisions in the sample, it can be seen that at the administrative layer, disputes are usually resolved within two years from the time these are filed. The judicial layer takes longer than the administrative layer. That this situation is continuing was validated by a key informant identified with employers, who also pointed out that at the judicial level, pursuing a relief is much more prohibitive in terms of legal costs. At the same time, the pendency of a case in the courts also inhibits employers from making business decisions. It can also restrict the mobility of a worker in the labor market.

[120] LCP, Article 276 [262-A]; Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings (2004), Rule VII, Section 2.

4. CONCLUDING OBSERVATIONS AND POSSIBLE STEPS FORWARD

4.1. Observations

4.1.1. Relevance, access and responsiveness

The LDR system remains necessary and relevant insofar as parties under employer-employee relationships still rely heavily on it to resolve their disputes. The promotion of conciliation and mediation as a preferred approach appears to have been boosted by the law requiring mandatory conciliation and mediation. On the other hand, arbitration remains as the lynchpin of the system, with individual rights disputes as the dominant type of disputes. Thus, out of total number of cases formally docketed as labor disputes, a large share is resolved through the enforcement and inspection powers of the DOLE Secretary and through the compulsory arbitration powers of the NLRC.

Administrative and legislative measures to enhance the system have been focused on strengthening the ability of the LDR agencies to cope with increasing caseloads, mostly by way of additional human resources and adjustments to simplify procedures and speed up the process cycle time for resolution. The additional divisions and creation of commission attorney positions in the NLRC and the increase in the number of inspector positions are the primary examples. With the role of collective bargaining in dispute resolution continuing to shrink, these measures appear aimed at preserving rather than transforming the existing design and structure of the system. As institutions now stand, the State has positioned itself to continue playing a very large if not expanded role in LDR.

Less attention, if at all, has been devoted to making the system more accessible and inclusive in relation to those under precarious and ambiguous employment relationships, as well as to those in work relationships that do not meet the tests of an employer-employee relationship. To this extent, the relevance and accessibility of the system to conflicts arising from the gig economy and other new or emerging work arrangements have not improved. Unless responsive measures are taken, the system runs the risk of becoming detached from the many conflicts arising from work relationships that are shaped by the transformations in the world of work and in the economy as a whole.

4.1.2. Complexity of design and structure

The design and structure of the system is complex. As shown in Part I, the system operates through several agencies dedicated to areas of specialization based on the subject matter of disputes. This has the advantage of clear jurisdictional boundaries, assurance of having highly-qualified specialists or experts to resolve specific disputes, and expectation of accountability.

But it also has its weaknesses. Public policy abhors multiplicity of suits and splitting of causes of action. Ideally, the exercise of jurisdiction should be comprehensive enough to empower the responsible agency to completely resolve the main issue in dispute as well as its necessary incidents. As has been demonstrated in the discussion on effectiveness, the existence of several agencies with very narrow jurisdictional boundaries makes the system prone to splitting of causes of action, multiplicity of suits, forum-shopping by the parties, fragmented remedies, and possibly conflicting decisions. Parties are also able to game the system and delay if not altogether avoid fulfillment of their obligations. Any of these can result in inefficiencies in the use of valuable time and resources not only of the agencies involved, but more importantly of the parties themselves. It also leads to prolonged disposition of cases, thus delaying the enforcement of corrective remedies and frustrating the realization of substantive justice.

The jurisdictional allocation in the system gives a very broad scope of jurisdiction for some agencies such as the NLRC, the DOLE Secretary and the DOLE Regional Offices, and

very narrow scope for other specialized agencies dealing with closely-related types of collective disputes such as the med-arbiters, BLR and NCMB, and voluntary arbitrators. The natural consequence is uneven caseloads for each LDR agency and officer. At some point, policymakers need to start addressing the question of how to optimize the role of agencies with narrow scope of authority or jurisdiction, including the question of keeping them as they are or streamlining their respective LDR functions. The objective should be to optimize resources and expertise and to strengthen the ability of the system to resolve a dispute and all its incidents in a single proceeding.

As can be seen in the discussion on the interactions between the administrative and judicial layers, the additional length of time and associated costs of finally resolving and bringing a dispute to a close appears to be the price that workers and employers must pay for the multi-layered structure of the system. The question is, do they have to pay this price? Are there ways of reducing it? This brings to the fore the question of the structure and design of the system. Are the two layers within the administrative structure and the two layers within the judiciary, as well as the other remedies in between, the appropriate structures to efficiently and effectively deliver labor justice?

4.1.3. Conciliation and mediation

SEnA is the fastest growing approach in the administrative layer of LDR. According to stakeholders with experience in the process, SEnA proceedings result in full and partial settlements most of the time. In their experience, less than 10% of RFAs are referred to other agencies for appropriate resolution. DOLE also reports many cases being settled with substantial total amount of settlements. Those with experience in SEnA attribute its growing acceptance to its less formal nature, the shorter process cycle time, and less costs it takes for a case to be resolved and terminated.

Be that as it may, stakeholders raise some major concerns.

One, while SEnA was institutionalized through the Labor Code, there was no additional administrative infrastructure to implement. There are no regular or full-time SEnA positions. Officers who perform SEnA duties do so in addition to their regular duties.

Two, there can be duplication of the conciliation process in the event that SEnA does not result in a settlement and the case is formally referred to arbitration. This happens because the rules of procedure in the arbitration agencies also require another round of conciliation. Anecdotal evidence suggests, for example, that when an RFA not settled through DOLE's SEnA desk is referred to the NLRC, the same matter will still have to be processed through the NLRC's own SEnA desk. If there is no settlement and the case is formally elevated to arbitration, the labor arbiter is again bound to conduct a mandatory conference in which another round of conciliation can take place.

Three, rights disputes arising from labor laws that prescribe minimum labor standards constitute a large share of labor disputes. For such disputes, there is no space for conciliation as minimum labor standards are not subject to negotiation or compromise. For these cases, all that is needed is for the employer to comply with labor standards once their applicability is established.

Four, ensuring the genuineness of conciliation can be a challenge. Key informants point out that conciliation is sometimes taken as a mere formality rather than a genuine process of arriving at a settlement. LDR officers go through the motions of calling for a conciliation conference as a matter of compliance with the mandate of the Labor Code for conciliation, and to meet targets prescribed by their superiors. In many instances, the handling officers do not really conduct a thorough diagnostic process to determine the nature of the controversy and,

for that matter, whether or not there really is a controversy or dispute. Not an uncommon observation is the propensity of some LDR officers to just ask whether the employer has an offer of settlement without even finding out what the issue involved is, and whether or not there is an issue in the first place. In NLRC's SEnA, a templated notice of conference is sent to employers to initiate SEnA proceedings. But the template directs the employer to attend the conciliation conference with a written proposal to settle, otherwise the SEnA conciliation will be terminated. This procedure effectively eliminates the diagnostic and facilitative nature of conciliation. Further, according to some conciliators, they are under pressure to meet numerical performance targets. Number of RFAs handled and disposition rates, rather than quality of conciliation, is their only measure of performance. Thus, the conciliator has no incentive to exert best efforts to help the parties sort out their differences.

And fifth, as in any other field, continuous conciliation competency enhancement is important. The conciliator's main role is to facilitate communication between the parties so that they can identify the problem properly and, if there is a problem, they can be guided to find a mutually acceptable solution. Many LDR officers are more used to resolving cases using the formal processes of arbitration and basing their resolution on the rights and obligations of parties as provided by law. Conciliation requires a different set of skills.

4.1.4. Enforcement and inspection

The enforcement or inspection power derives from the State's police power and is the most intrusive and coercive among DOLE's policy instruments. Its objective is to bring about immediate results - corrective relief to workers, compliance by the erring employer, and termination of the dispute without going through the litigious procedures of arbitration. But the inspection program is less than efficient. Case disposition is slow and backlogs are high. It can also be observed that the specialized rules of procedure on inspection (that is, D.O. No. 183-17) do not differ from arbitration procedures in the NLRC. As in the NLRC, it also has two administrative stages – original and appellate – and this is not counting the process of actual inspection. A timely appeal to the DOLE Secretary will also prevent immediate execution of a compliance order.

Inspection is inherently time-consuming and costly regulatory activity because it involves onsite visits and multiple claimants. In Part II of this assessment, it is noted that DOLE tends to inspect small establishments with less than ten employees. The latest average worker-to-benefit ratio is less than PHP 3,000, which is within the range of small money claims. For the kind of benefit that workers get from the process as well as from a value for money perspective, and given the problem of low disposition rates and case backlogs, the policy issue is whether it should be the enforcement power under Article 128 of the Labor Code or some other regulatory approach that could deliver more efficient and effective outcomes.

There are also problematic areas in the conduct of inspection. For example, the inspection checklist requires what may be described as a "wall-to-wall" approach where major substantive rights and minor violations are lumped together. Major violations like non-payment, delayed payment or underpayment of wages and wage-related benefits and OSH standards need to be prioritized. Many reported violations are relatively minor and can be corrected onsite or subjected to summary procedures. Yet, it is not uncommon that these violations, such as non-compliance with administrative or documentation requirements like keeping of minutes of safety committee meetings, lack of a published anti-drug policy, housekeeping and records-keeping requirements, are processed and litigated in the same way as major violations. In occupational safety and health particularly, the new OSH law envisions a risk-based approach but implementation is still focused on compliance with paper requirements.

Other problems can be attributed to administrative capacity especially in the technical aspects of fact-finding, evidence gathering, examination of records, and due process, or simply due to the inadequate knowledge or carelessness of the inspector and the DOLE regional director. An inspector's inexperience and insensitivity to the larger external environment can also be a problem. For example, in one inspection conducted in a retail establishment right after the lifting of the pandemic-related quarantine restrictions, the employer was found to have underpaid certain monetary benefits to employees. Computing the benefits, the inspector used the "straight computation" method and computed the amount for a period of three years, including the period when enhanced community quarantine restrictions were in effect and the subject establishment was actually prevented from operating by government order.

In relation to OSH, DOLE insiders acknowledge practical challenges especially in small enterprises. Among others, these arise from the requirements for each enterprise, however small, to individually comply with the setting up of safety and health committees and appointment of dedicated safety officers. Imposition of fines is also an issue. For example, an employer of a small retail establishment with less than ten employees ceased operations after it was ordered to pay a fine of PHP40,000 per day for failing to set up a safety and health committee. A situation like this has a spillover effect on other LDR agencies (for instance, it can trigger an illegal dismissal case in the NLRC), as well as on employment as it can lead to lost jobs. There is actually room for review of the implementing rules and regulations of the OSH law Republic Act No. 11058). In relation to small and medium enterprises, Section 30 of the law empowers DOLE to develop core compliance standards that are specific to small and medium enterprises. Section 31 of the same law also institutionalizes intra-governmental coordination and cooperation in the promotion and enforcement of OSH standards. Specific implementing rules and regulations are yet to be issued for both sections.

4.1.5. General IRRs and agency-specific procedures

There are general IRRs implementing the Labor Code which include basic procedures for dispute resolution. But there are also separate specialized procedures and rules issued by each agency which apply only to the proceedings of that agency. The specialized procedures have many parts in common, such as in the rules on procedural due process (including service of notices and other processes, mandatory conferences, and actual conduct of proceedings), form and content of complaints and decisions, hearings and evidentiary requirements, among others. As noted in the DWCP, the procedures do tend to mimic court procedures in spite of the classification of the administrative LDR layer as an alternative dispute resolution (ADR) mechanism.

Also, whatever the specialized rules and procedures are, these appear to have uniform application regardless of the complexity or simplicity of the issues involved. Thus, complaints for unfair labor practices, illegality of strikes and termination of employment with claims for re-instatement and back wages are handled the same way as simpler cases such as, for example, small money claims and claims of domestic household workers where the maximum award is one-half month pay.

4.1.6. Management system

Mirroring the separate internal rules, individual agencies have their own, stand-alone case and performance management systems that are used for their own internal purposes. Some are more developed and more-technology driven than others. Some are able to track case status from filing to resolution. For instance, BLR and BWC have a publicly accessible portals on cases and case status in their websites.

The overall performance monitoring system of DOLE is done through Project SpeED and other labor-related data consolidated from reports of all LDR agencies. But as discussed, Project SpeED generates only a limited number of indicators. More specific measures on efficiency and effectiveness both at the system and at agency level need to be developed. Ideally, Project SPeED should also be able to interconnect all existing case management systems. So far, the Project does not have this capacity.

4.2. Options and recommendations

4.2.1. A systemic approach

Recent and current efforts to enhance accessibility, efficiency and effectiveness of the LDR system have been undertaken almost exclusively at the individual agency level. There are no visible and purposeful efforts at the system level in terms how the jurisdiction, procedures and processes of all agencies involved interact, coordinate and mutually support each other to realize labor justice in a prompt, inexpensive and fair manner. The options and recommendations that follow are directed at systemic improvements of the administrative LDR layer. The options relate to management, operational, procedural and policy measures that can be pursued singly or in combination to bring the system up to speed with the emerging demands of sectors and transformations in the world of work.

4.2.2. Streamlining conciliation and mediation processes

Conciliation and mediation are gaining greater acceptance, especially with the introduction of SEnA. Further improvements can be considered in the following areas:

- Ensure that conciliation serves its true purpose. Conciliation is a venue for parties to diagnose their problems, draw up solutions, facilitate settlement, and effectively terminate and close the dispute. Crucial in this regard is to build proper competencies of handling officers to conciliate and mediate, supported by appropriate performance metrics.
- Improve the function of SEnA both as a first line of administrative intervention in terminating a dispute and as an effective filter to sort out the disputes that should properly go to arbitration or adjudication. SEnA is a preliminary stage of State intervention. SEnA officers should first make sure to determine the nature and purpose of the RFA. A requesting party may be seeking assistance for conciliation services, or some other forms of assistance like request for information or counselling. Only RFAs tagged as requests for conciliation should be accounted for in the LDR system. Other RFAs not so tagged should not be included as "cases handled" and "cases disposed" but should simply be forwarded to the appropriate agency for other forms of intervention.
- Improve inter-agency coordination to eliminate duplication of conciliation proceedings. On the premise that preliminary conciliation in the originating agency is done properly, the LDR agencies need to operationalize the principle that conciliation anywhere is effective everywhere. Take for example SEnA proceedings conducted in DOLE or in another agency. If an RFA does not result in settlement during SEnA and is referred to arbitration, the referral should suffice to dispense with another round of SEnA in the receiving agency. In any case, conciliation can still be conducted but already as part of arbitration.

- Rethink the applicability of conciliation in relation to rights disputes involving alleged violations of minimum labor standards. In such cases, consider immediately resolving the dispute through enforcement or arbitration.
- Monitor the implementation of settlements and provide for more speedy remedies in the event of non-implementation.
- Consider how technology may be used to improve LDR efficiency.
- Conduct an independent evaluation on the administrative requirements of fully implementing SEnA, including on the adequacy of current human resource levels to perform dedicated conciliation functions.
- Consider a uniform policy of making conciliation accessible and available to situations where the employer-employee relationship is ambiguous and uncertain. This will respond to the issue of making the LDR system accessible to new work arrangements, including those in the gig economy. The legal basis for an administrative policy can be the concept of indirect employer under Article 107 of the Labor Code. For the medium to the long term, specific legislation to institutionalize this adjustment can also be considered.
- If conciliation is made available to work relationships which are outside an employer-employee relationship, there must be corresponding adjustments in DOLE's administrative structure. human resource complement, and facilities to enable it to cope with expected increase in caseload.

4.2.3. Enforcement and inspection

Among the LDR approaches, inspection and enforcement can provide the most immediate relief to workers. But it also requires the most government resources in terms of human resources involved, time and operational costs. The areas for improvements are as follows:

- Strategically re-focus inspection planning and targeting. Targeting need to be more strategic and risk-based. Quality of inspection is more important than the mere number of establishments inspected or violations uncovered.
- Consider revising the inspection approach. Instead of the "wall-to-wall" approach currently being implemented, the use of coercive enforcement measures through compliance orders should concentrate on violations of substantive rights of the parties, especially those that are major or are of serious nature. In this regard, the idea of separating general labor standards inspection and occupational safety and health inspection should also be explored.
- The trend toward inspecting small enterprises should be corrected. DOLE should adopt a clear policy on promoting compliance in small establishments, not necessarily through the immediate use of the compulsive enforcement power, but through the exercise of the education function of inspection. Coordination with government agencies concerned, including with local government units, should be optimized. In OSH standards, enabling policy for group compliance or area-based or community-based compliance can be considered. For example, a group of enterprises within the same area with the same or similar safety and health risk assessment profiles may be allowed to have shared OSH committees and safety officers. In this regard, LGUs which have their own health centers and fire safety divisions can act as partners in implementing OSH programs.

- Consider re-channeling the resolution of simple and small money claims. Sometimes money claims arising from non-compliance with labor standards are first raised through SEnA. If not settled, the matter is typically referred to inspection. Instead of inspection, this can be referred to the agency of competent jurisdiction immediately.
- In relation to compliance with certain OSH standards by small enterprises, DOLE needs to fully implement the new OSH law by issuing the implementing rules and regulations identifying core standards for small and medium enterprises.

4.2.4. Small or simple money claims

Article 129 of the Labor Code authorizes the DOLE Regional Director or any of the duly authorized hearing officers of the DOLE, through summary proceedings and after due notice, to hear and decide any matter involving the recovery of wages and other monetary claims and benefits owing to an employee employed in domestic and household service provided that the claim is not accompanied by a claim for re-instatement and does not exceed PHP 5,000. The provision applies to pure money claims after the employer-employee relationship has been terminated.

The application of Article 129 can be maximized through administrative action that decentralizes the authority to make decisions to hearing officers (possibly med-arbiters) and adopting a truly summary and expedited procedure that is simpler than existing arbitration procedures.

In the medium to long-term, legislative amendment of Article 129 may be proposed, with the following features:

- Lodge and consolidate jurisdiction over all small and simple money claims in one agency or under one LDR channel.
- Expand the coverage of the provision beyond domestic or household service workers.
- Expand the application of the rule to include situations when the employer-employee relationship still exists or when there is an indirect employer relationship so long as the claim is a pure or simple money claim. This will include claims for non-payment or underpayment of wages discovered during inspection, or nonpayment or under-payment of wages of workers under an indirect employment relationship as defined under Article 107 of the Labor Code.
- Increase or provide an administrative mechanism for increasing the ceiling of small money claims to PHP 5,000.
- Re-think the need to provide for appeals and, if provided, where the appeal should be lodged.
- Consider making decisions or orders during summary proceedings immediately executory unless restrained by competent authority.
- Institutionalize summary proceedings in the resolution of small and simple money claims, to be governed by a special set of procedures that are simpler than the more formal arbitration procedures.

The above options will re-allocate jurisdiction over small and simple money claims under one LDR agency or channel, whether these are filed directly, arise from inspection, referred

from SEnA, or arise out of the application of the indirect employer doctrine. It will also help redistribute and balance caseloads among all the LDR agencies.

4.2.5. Certification elections

For certification elections and regulation of trade union activities, legislative measures have been introduced to institutionalize jurisprudential rulings and administrative policies, among others, that the employer is a by-stander in a certification election,[121] and that a petition for cancellation of union registration shall not suspend certification election proceedings.[122] These measures were intended to prevent unscrupulous employers from using legal provisions to put a chokehold on the certification election process, thus preventing workers from acquiring the right to collectively bargain. Relevant amendments to the IRR on certification elections (D. O. No. 40) have also been introduced to implement the changes.

The provision on appeal from certification election orders under Article 272 [259] needs to be given urgent attention. This provision has given rise to situations where administrative decisions on a single petition for certification election can give rise to two rounds of administrative appeal and two rounds of judicial review. Not only does this situation inordinately prolong the final resolution of the dispute, it also has the effect of impairing the substantive rights to organize and to collectively bargain. Administrative and legislative measures are needed to address this situation, specifically the following:

- Clarify that all orders of the med-arbiter to conduct certification elections are in the nature of interlocutory orders. These shall not be subject to an appeal.
- Only the order certifying the results of the certification election can be appealed. The grounds for appeal shall be specified.
- A final order within the administrative layer certifying a collective bargaining agent shall be immediately executory. This should not be affected by any pending petition to cancel the certified bargaining agent's union registration.

4.2.6. Role of the courts

A review of the principle of hierarchy of courts and the doctrine of judicial courtesy is beyond the scope of this assessment as this involves judicial policies.

However, to manage the effects of these policies, one area for legislative action would be to consider a legislative proposal that final decisions and orders of administrative LDR agencies are immediately executory unless enjoined by the courts. This rule can apply generally, or its application can be limited to certain cases such as decisions on small or simple money claims and orders certifying a union as the duly elected sole and exclusive collective bargaining agent.

4.2.7. Horizontal integration and downsizing of structure

The recommendations above will necessarily involve a thorough review of the functions of all LDR agencies. The fundamental policy issue is whether the system as currently designed and structured, without any change being introduced, still remains as the most appropriate means to ensure accessible, efficient and effective delivery of labor justice. Thus, is there an imperative to re-organize the administrative layer of the system?

If re-organization is the track, the review can consider the following key points:

[121] LCP, Article 271 [258-A], as amended by Republic Act No. 9481 (2007).
[122] ___, Article 246 [238-A], as amended by Republic Act No. 9481 (2007).

- Instead of dispersing SEnA, consider the option of having one agency responsible in implementing preliminary conciliation.
- Re-allocate jurisdictional boundaries, especially in relation to highly specialized agencies with very narrow scope of jurisdiction.
- Consider one LDR channel that integrates and consolidates the resolution of small and simple money claims.
- Consider one LDR channel that integrates and consolidates the resolution of collective disputes and all related incidents.
- To address potential conflicts of jurisdiction, make provisions where concurrence of jurisdiction and application of the principle of primary jurisdiction can be applied.
- Consider limiting or rationalizing appellate remedies.
- Consider how information and communication technology can improve the efficiency and effectiveness of the system.

4.3. Concluding notes

The LDR system will continue to benefit from existing programs on case management and performance monitoring, improving administrative capacity, and enhancing human resources capability.

In terms of performance management, Project SpeED is useful in providing a picture of the performance of the LDR system as a whole. On the other hand, the case management and monitoring systems of individual agencies appear to serve the internal purposes of each agency. With a view toward standardization and metrics and integration, there are immediate areas for improving the indicators on efficiency and effectiveness, such as the ageing of cases, the date when cases are submitted for resolution, affirmation or reversal rates of decisions at the administrative and judicial levels, and status of implementation of decisions, among others. Considering the complexity of the structure that tends to fragment jurisdiction over closely-related issues to several agencies, interconnection between case management systems will also be helpful to minimize the possibility of inconsistent or conflicting decisions. Finally, expanding and constantly updating the content of publicly-accessible agency portals can help the agencies effectively communicate their mandates and promote transparency and confidence in the system.

In terms of adapting to technology, all stakeholders and informants see the value of facilitating online access to LDR services. Building on the experience during the pandemic, LDR agencies can further advance the potentials of using interactive online platforms not only to facilitate filing of cases and requests for assistance, but also to conduct conferences and hearings and to receive evidence. This is a key area of modernization. For this purpose, the IRRs must be reviewed and updated to formally recognize online proceedings while ensuring that issues of substantive and procedural due process are addressed. In any case, so as not to exclude those who have limited connectivity, the physical infrastructure for onsite or in-person proceedings should be maintained parallel to online platforms.

In terms of human resource capability, each LDR agency has its own capacity-building programs that are implemented internally for its personnel. To complement these, more programs which the LDR agencies can undertake jointly may be considered. These will enable participants to share and learn from their respective experiences in their specialized fields, thus

enhancing their skills and broadening their perspectives in performing their work as LDR professionals.

Finally, the recommended areas to improve the LDR system as discussed above should be complemented with relevant and meaningful changes in substantive laws. To keep faith with the fundamental policy framework of promoting the primacy of collective bargaining and shared responsibility between the parties as the preferred mode for regulating terms and conditions of employment and for resolving disputes, legislative and administrative measures to promote the effective exercise of the rights to self-organization and to collective bargaining should continue to be pursued with more vigor.

ANNEXES

ANNEX "A": List of key informants

Government

- Ma. Consuelo Bacay, Director, DOLE-BLR
- Ma. Teresita Cancio, Executive Director, NCMB
- Ma. Teresa Cucueco, Assistant Secretary, DOLE
- Adeline De Castro, Director, DOLE-Planning Service
- Atty. Joseph Tolentino, Chief, NLRC-Legal Service
- Ronda Malimban, Division Chief, NCMB
- Ramon Saura, Med-Arbiter, DOLE-BLR
- Kristine Carol Soriente-Ramos, Division Chief, DOLE-BWC

Sectoral Informants

- Atty. Rosalio Aragon
- Atty. Noel Balsicas
- Mr. Ramon Certeza
- Mr. Roland Dela Cruz
- Atty. Arnold De Vera
- Atty. Proculo Sarmen
- Mr. Gerard Seno

ANNEX "B": Survey of Selected Labor Cases that Reached the Supreme Court from February 2021 to October 2-21

- Green font – Original claim in the complaint granted by agency of origin or by appellate tribunal
- Red font – Original claim in the complaint dismissed by agency of origin or by appellate tribunal

Source: Supreme Court website at https://sc.judiciary.gov.ph/decisions/

Case (Subject Matter)	**Labor Arbiter** Filed; Decided	**NLRC Commission Proper (Appeal)**		**Court of Appeals**		**Supreme Court**
		1st Decision	MR	1st Decision	MR	
Pacific Royal Basic Foods v. Noche, et al, G.R. No. 202392, 10 October 2021 (illegal dismissal/suspension, regularization, claim for damages)	23/04/07; 28/04/08	29/05/09	30/10/09	28/12/11	25/06/12	04/10/21 (+legal interest of 6% on monetary award)
University of Cordilleras v. Lacanaria, G. R. No. 223665, 27 September 2021 (illegal dismissal)	09/06/10; 30/12/10	21/10/11	10/01/12	18/04/16	No MR	27/09/21 (nominal damages: procedural due process lapses)
Mabalot v. Maersk Filipinas Crewing Inc, G. R. 224344, 13 September 2021 (permanent disability benefits and claim for damages)	05/03/12; 29/06/12	31/10/12 (LA's decision affirmed with modification)	12/12/12	21/09/15 (reinstated LA's decision)	22/04/16	13/09/21
New World International Development v. New World Renaissance Hotel Labor Union, G.R. No.197889, 28 July 2021 (unfair labor practices, i.e., refusal to bargain, etc.)	07/03/05; 13/06/08	25/03/10	12/07/10	14/03/11	21/07/11	28/07/21 (complaint rendered moot by voluntary dissolution of union)
Upod v. Onon Trucking, G.R. No. 248299, 14 July 2021 (illegal dismissal; employer-employee relationship)	19/05/17; 28/02/18	26/06/18	28/08/18	14/02/19	10/07/19	14/07/21
Tacis and Lamis v. Shields Security Services, G.R. 234575, 07 July 2021 (illegal/constructive dismissal)	22/08/14	10/11/14	16/03/15	20/04/17	26/09/17	07/07/21

Case (Subject Matter)	**Labor Arbiter** Filed; Decided	**NLRC Commission Proper (Appeal)**		**Court of Appeals**		**Supreme Court**
		1st Decision	MR	1st Decision	MR	
Site for Eyes, Inc. v. Daming, G.R. 241814, 30 June 2021 (constructive dismissal)	_/20/16; 14/11/16	Affirmed (date not indicated)	Affirmed (date not indicated)	10/05/18	7/08/18	30/06/21
Caranda v. Dohle Seafront Crewing, G.R. 252195, 30 June 2021 (total disability benefits)	Voluntary Arbitrator decision: 01/08/17			29/11/19	03/03/20	30/06/21
Guagua National Colleges v. Guagua National Colleges Labor Union, G.R. No. 213730, 23 June 2021 (share of employees in tuition fee increase)	Voluntary Arbitrator. Filed with NCMB 19/10/12; VA decision: 19/04/13; MR denied: 07/06/13			13/02/14	25/07/14	23/June/21
Dela Torre v. Twinstar Professional Protective Services, G.R. No. 222992, 23 June 2021 (illegal dismissal).	23/08/11; 19/03/12	16/08/12 (reversal based on quitclaim)	MR denied; date not indicated	03/09/15	11/02/16	23/06/21 (but with modification to award nominal damages (nominal damages cannot be waived thru a quitclaim as otherwise, this would be contrary to public policy)
Idul v. Alster Int'l Shipping Services, Inc., G.R. No. 209907, 23 June 2021 (total permanent disability benefits)	03/06/09; 31/05/10	14/12/10	28/02/11	30/04/13	20/09/13	23/06/21
Joverio v.Cerio, et al, G.R. No. 202466, 23 June 2021 (illegal dismissal)	_/07/93; 30/03/94 (1); 31/07/01 (2)	31/03/95 (case remanded to LA); 24/09/02 (2)	18/02/08	22/12/10	26/09/11	23/06/21
Inter-Island Information Systems v. Court of Appeals, G.R. No. 187323, 23 June 2021 (illegal dismissal)	__10/03; 29/07/05	31/10/07	01/30/08	12/09/08	06/02/09	23/06/21
Lamadrid v. Cathay Pacific Airways, G.R. No. 200658, 23 June 2021 (illegal dismissal)	_07/07; 29/04/09	24/02/10	20/04/10	16/09/11	17/02/12	23/06/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
PNCC v. NLRC, G. R. No. 248401, 23 June 2021 (mid-year bonus; jurisdiction of the National Labor Relations Commission over non-chartered government-owned or controlled corporations; non-diminution rule)	_/_/13; 29/01/14	06/06/14	19/12/14	12/07/18	15/07/19	23/06/21
Esplago v. Naess Shipping Phils, G.R. No. 238652, 21 June 2021 (total permanent disability benefits	_/_/12; 08/02/13	15/07/13	30/08/13	11/09/17	08/03/18	21/06/21
Carpio v. Mod-air Manila, G.R. No. 239622, 21 June 2021 (illegal dismissal, project employment and regularization)	_/_/13; 12/03/15	29/09/15	30/10/15	27/12/17	30/04/18	21/06/21
Ventis Maritime Corp. v. Cayabyab, G.R. No. 239257, 21 June 2021 (total permanent disability)	07/29/13; 02/21/14	31/10/14 (grade 6 disability only)	22/12/14	25/09/17	04/05/18	21/06/21 (affirmed grade 6 disability only with modification of 6% interest)
Martinez et al v. Magnolia Poultry Processing Plant (now San Miguel Corp.), G. R. No. 231579/G.R. No. 231636, 16 June 2021 (labor-only contracting)	23/08/10; 04/08/11	13/09/12	25/01/13	29/04/16	09/05/17	16/06/21
Loadstar International Shipping v. Cawaling, G.R. No. 24275, 16 June 2021 (disability benefits and damages)	25/11/15; 21/03/16	18/07/16 (with modification as to solidary liability)	11/10/16	25/01/18	17/09/18	16/06/21
De Ocampo v. Seacrest Maritime Management, G. R. No. 236570, 14 June 2021 (total permanent disability benefits and attorney's fees)	Voluntary arbitration decision: 03/03/16			16/08/17 (disability is partial, not permanent)	04/01/18	14/06/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
Reyes v. Mitsui Osk Marine Inc., G. R. No. 209756, 14 June 2021 (permanent disability)	25/01/10; 7/10/10	17/07/11	31/08/11	01/08/13	05/11/13	14/06/21
Orlanes v. Stella Maris Ship management, G.R. No. 247702, 14 June 2021 (non-payment of salary, travel allowance and leave pay and damages)	24/07/12; 31/05/13	30/10/13	26/12/13	27/09/18	09/03/19	14/06/21 (petition granted with remand of the case to LA to implead additional parties)
Calera v. Hoegh Fleet Philippines, G. R. No. 250504, 14 June 2021 (total permanent disability benefits)	Voluntary arbitration: 24/07/17; 19/11/18			12/07/19	22/11/19	14/06/21
Quines v. United Philippine Lines, G.R. No. 248774, 12 May 2021 (total permanent disability benefits)	Voluntary arbitration: 13/01/17; 01/12/17			24/04/19	09/08/19	12/05/21
Campued v. Next wave Maritime Ship Management, G.R. No. 253756, 12 May 2021 (total permanent disability benefits)	__/__/17; 05/09/17	18/12/17	29/01/18	10/02/20	02/10/20	12/05/21
Caraan v. Grieg Phils., Inc, G.R. No. 252199, 05 May 2021 (total disability benefits)	Voluntary arbitration: 15/06/15; 05/03/16			13/09/19	10/03/20	05/05/21
Zonio v. First Quantum Leap Security Agency, G. R. No. 224944, 05 May 2021 (underpayment of salary, 13th mo. pay, non-payment of OT and holiday premium and other money claims)	__/05/14; 26/02/15 (grant salary differential but dismissed claim for premiums)	29/05/15 (modified to include premiums)	No MR	31/05/16 (deny award of OT premium)	No MR	05/05/21 (entitled to OT pay)

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
GDI Lighting Solutions v. Unating, G. R. No. 243414, 03 May 2021 (illegal dismissal, money claims, damages)	29/01/15; 25/11/15	20/04/16	31/05/16	12/03/18	28/11/18	03/05/21
Asian Terminals, Inc. v. Reyes, G.R. No. 240507, 28 April 2021 (illegal dismissal)	Not indicated: Incident took place in 2014; LA dismissed complaint	08/03/16	27/04/16	18/01/18	27/06/18	28/04/21
Abella v. Abosta Ship management, G.R. No. 249358, 28 April 2021 (total permanent disability benefits)	24/05/17; 25/01/18 (grade 8 disability only)	24/05/18	18/06/18	22/05/19	28/08/19	28/04/21
Banta Moll v. Convergys, Phils., G. R. No. 253715, 28 April 2021 (illegal dismissal)	19/04/18; 12/09/18	25/01/19 (no dismissal took place; complainant ordered to return to work)	29/03/19	11/02/20	24/09/20	28/04/21
Burnea v. Security Trading Corp., G. R. No. 231038, 26 April 2021 (illegal dismissal and money claims)	25/09/14; 27/03/15 (illegal dismissal dismissed; only holiday pay, salary differentials were granted)	29/09/15	30/10/15	02/12/16	10/04/17	26/04/21
Ocampo v. International Ship Crew Management, G.R. No. 232062, 26	11/09/12; Date not indicated	Date not indicated	Date not indicated	30/08/16	24/05/17	26/04/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
April 2021 (illegal dismissal and damages)						
Philippine Transmarine Carriers v. Manzano, G. R. No. 210329, 18 March 2021 (disability benefits)	Voluntary arbitration: 11/04/11; __/__/11			28/06/13	10/12/13	18/03/21 (with modification)
Elevera v. Orient Maritime Services, G.R. No. 240054, 18 March 2021 (permanent total disability with damages)	23/09/13; 23/06/14	09/01/15	15/05/15 (modified; partial disability only)	05/09/17 (modified; award of benefits reduced, plus attorneys' fees)	31/05/18	18/03/21 (total permanent disability)
United Philippine Lines v. Ramos, G. R. No. 225171, 18 March 2021 (permanent total disability)	_/_/13; Date of decision not indicated; Arbitrator granted permanent disability claim	22/07/14	27/08/14	29/01/16	14/06/16	18/03/21
HCL Technologies v. Guarin, 246793, 18 March 2021 (illegal dismissal [no valid redundancy], money claims, damages)	_/_/16; 30/06/17	30/10/17 (with modification)	19/12/17	29/01/19	17/04/19	18/03/21 (redundancy valid as all requisites for redundancy were met)
Philam Homeowners Association v. De Luna and Bundoc, G. R. No. 209437, 17 March 2021 (illegal dismissal)	_/_/09; 30/04/10	26/07/10	30/09/10	21/02/13 (with modification for payment of unpaid salary and nominal damages)	03/10/13	17/03/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
Wilhemsen Smith Bell Manning v. Vencer, G. R. No. 235730, 17 March 2021 (total permanent disability)	_/_/14; 11/03/15	22/10/15	11/02/16	21/03/17	09/11/17	17/03/21
Technical Education and Skills Development Authority v. Abragar, G.R. No. 201022, 17 March 2021 (illegal dismissal)	29/04/03; 30/07/04	30/06/06 (by way of petition for relief from judgement)	30/06/08 (decision annulled; petition for relief granted); 29/08/08	13/03/12	___	17/03/21 (CA reversed; case remanded for further proceedings for joinder of proper parties)
Lafuente and Panaguiton v. Davao Central Warehouse Club, G.R. No. 247410, 17 March 2021 (illegal dismissal)	_/10/16; 05/01/17	30/06/17	27/09/17	20/07/18	23/01/19	17/03/21
DORELCO Employees Union-TUCP v. DORELCO, G. R. No. 240130, 17 March 2021 (entitlement of retired employees to salary increases under a CBA; period to appeal a VA decision under Art. 276)	Voluntary arbitration: _/_/12; 25/09/12			08/03/18	21/05/18	17/03/21 (case remanded to CA for resolution on the merits)
Ebus v. Results Company, Inc., G.R. No. 244388, 03 March 2021 (constructive dismissal)	30/03/15; 01/02/16	29/07/16	09/09/16	13/06/18	29/01/19	03/03/21
Toyo Seat Phils. V. Velasco, G.R. No. 240774, 03 March 2021 (regularization, illegal dismissal, project employment)	_/04-05/13; 27/06/14	29/12/14	25/02/15	29/11/17	11/07/18	03/03/21
Jebsen's Maritime Inc. v. Gutierrez, G. R. No. 244098, 03 March 2021 (total permanent disability benefits)	28/11/14 (first case); 03/07/15 (second case);	Decision on first case affirmed on the ground of res judicata	15/11/16	29/08/18 (decision on first case reversed; second case	14/01/19	03/03/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
	16/06/15 (first case); 29/04/16 (second case)			affirmed; no res judicata)		
OSM Maritime Services v. Go, G.R. No. 238128, 17 March 2021 (permanent total disability benefits)	09/09/16; 27/12/16 (disability not total and permanent but LA granted a monetary award)	27/02/17 (disability not work-related but the LA's award stands)	31/03/17	05/01/18	14/03/18	17/02/21
Almogera v. A & L Fishpond and Hatchery, G. R. No. 247428, 17 February 2021 (illegal dismissal; underpayment and non-payment of benefits, money claims, damages)	_/_/17; 24/08/17	29/12/17	31/01/18	12/11/18	21/05/19	17/02/21
Palada v. Crossworld Marine Services, G. R. No. 247778, 17 February 2021 (total and permanent disability benefits)	Voluntary arbitration: 02/04/18 (first decision); 23/07/18 (decision on MR)			18/02/19	11/06/19	17/02/21
Gergara v. ANZ Global Services, G. R. No. 250205, 17 February 2021 (illegal dismissal with money claims)	_/09/16; 15/02/17 (no illegal dismissal but complainant awarded proportionate 13th month pay)	27/04/17 (no illegal dismissal as the dismissal was ineffectual; award of separation pay plus 13th month pay)	23/06/17	17/01/19 (No illegal dismissal as complainant's resignation was accepted; awards of NLRC reversed)	24/10/19	17/02/21 (CA reversed and awards of NLRC reinstated)
Doehle-Philman Manning Agency v. Gatchalian, G.R. 207507, 17 February 2021 (total disability benefits and sickness allowance)	11/02/09; 14/10/09 (but with award of	10/06/10 (delete financial assistance)	27/07/10	25/01/13	05/06/13	17/02/21 (LA's decision affirmed with modification

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
	financial assistance)					
Bitco v. Crossworld Marine Services, G. R. No. 239190, 10 February 2021 (permanent total disability)	__/_/16; 23/01/17	09/05/17	31/05/17	29/11/17	03/05/18	10/02/21 (LA's decision reinstated)
Palgan v. Holy Name University, G. R. No. 219916, 10 February 2021 (illegal dismissal [probationary employment?] with damages)	_/_/07; Date of LA decision not indicated	29/11/12	27/03/13	26/02/15	15/07/15	10/02/21
People Manpower Phils. V. Buquid, G.R. No. 222311, 10 February 2021 (total permanent disability benefits [involves definition of seafarer)	_/_/12; 29/08/13	31/03/14	29/04/14	28/08/15	13/01/16	10/02/21 (Buquid is a land-based worker, not a seafarer)
Destriza v. Fair Shipping Corporation, G. R. No. 203539, 10 February 2021 (permanent total disability benefits)	Voluntary arbitration: Date of filing not indicated; 27/05/07			27/04/12	22/08/12	10/02/21
Salonga v. Solvang Phils., G. R. No. 229451, 10 February 2021 (total permanent disability benefits)	_/_/14; 07/03/14	25/09/14 (with reduction of benefits)	14/12/14	15/09/15	17/01/17	10/02/21
Concordo v. Erjohn and Almark Transit, G. R. No. 250147, 10 February 2021 (illegal dismissal)	Date of filing not indicated; 13/11/09 (Complainant was not dismissed but ordered reinstated; motion for execution ordered	30/09/10 (NLRC affirmed that complainants were not dismissed); 10/05/12 -NLRC granted petition for extraordinary	25/11/10	25/02/13; 23/05/19	MR denied, no date stated; 02/10/19	13/01/14; 10/02/21

Case (Subject Matter)	Labor Arbiter Filed; Decided	NLRC Commission Proper (Appeal)		Court of Appeals		Supreme Court
		1st Decision	MR	1st Decision	MR	
	on 22 February 2012)	remedies; nullified the 22 February 2012 writ				

References

- Constitution of the Republic of the Philippines (1987).
- Executive Order No. 126, Reorganizing the Ministry [Department] of Labor (1987).
- Executive Order No. 180 (Governing the Right to Self-Organization of Government Employees, 1986).
- Executive Order No. 292 (Revised Administrative Code of the Philippines, 1987).
- Department of Labor and Employment (DOLE) – Bureau of Working Conditions. Appealed Labor Standards Cases as of January 22, 2022, at https://bwc.dole.gov.ph/cases, accessed February 27, 2022.
- DOLE - Planning Service. Labor-Related Data compiled (2021).
- DOLE - Planning Service. Overall Performance Indicators of LDR Agencies, Project SpeED, 2016-2021 (2021).
- DOLE Circular No. 1 (2006).
- DOLE Department Order No. 40, as amended (Rules and Regulations Implementing Book V of the Labor Code, 2003).
- DOLE Department Order No. 174 (Rules and Regulations Implementing Articles 106-109 of the Labor Code, 2017).
- DOLE Department Order No. 49 (2003), as amended, Rule XI, Section 1 in relation to Section 15.
- DOLE Department Order No. 107 (Guidelines on the Single-Entry Approach, 2010)
- DOLE Department Order No. 151 (Amended Rules and Regulations Implementing Republic Act No. 10396 and Providing Guidelines on the Single-Entry Approach, 2016).
- Labor Code of the Philippines (LCP), Presidential Decree No. 442 (1974), as amended.
- International Labor Organization (ILO). Decent Work Country Programme Philippines (DWCP) 2020-2024 (2020), https://www.ilo.org/wcmsp5/groups/public/---ed_mas/--program/documents/genericdocument/wcms_755642.pdf.
- National Conciliation ad Mediation Board (NCMB). 2020 Annual Report.
- NCMB. Report to the Philippine Association of Voluntary Arbitrators (2022).
- NCMB. Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings, as amended (2004).
- National Labor Relations Commission (NLRC). Revised Rules of Procedure (2011).
- NLRC. *En Banc* Resolution No. 14 (2013).
- Public Sector Labor-Management Council (PSLMC) Resolution No. 2, series of 2004, as amended (Amended Rules and Regulations Implementing Executive Order No. 180 on the Right to Self-Organization of Government Employees).
- Republic Act No. 6715 (New Labor Relations Law, Amending Book V and other Provisions of the Labor Code, 1989).
- Republic Act No. 8042, as amended (Migrant Workers Act, 1995).
- Republic Act No. 9347 (Rationalizing the Composition and Functions of the National Labor Relations Commission, amending Articles 213, 214, 215 and 216 of the Labor Code, as amended, 2006).

- Republic Act No. 9481 (Strengthening the Right to Self-Organization and amending Articles 234 of the Labor Code, 2007)
- Republic Act No. 10361 (Domestic Workers Act or *Batas Kasambahay,* Amending Articles 141 to 152 of the Labor Code, 2013).
- Republic Act No. 10396 (Strengthening Conciliation and Mediation as a Voluntary Mode of Dispute Settlement for all labor cases, amending Article 234 [228] of the Labor Code, 2013).
- Republic Act No. 10741 (Strengthening the Operations of the National Labor Relations Commission, amending Articles 220 and 222 of the Labor Code, 2016).
- Republic Act No. 11641 (Department of Migrant Workers' Act, 2022).
- Philippine Overseas Employment Administration (POEA). Revised Rules and Regulations Governing the Recruitment and Employment of Seafarers, 2016.
- POEA. Revised Rules and Regulations Governing the Recruitment and Employment of Land-Based Filipinos, 2016.
- POEA. Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers on Board Ocean-Going Ships, as amended, 2010.
- Supreme Court. Revised Rules of Court (Rules 43, 45 and 65).

Cases Cited

- *Guagua National Colleges v. Court of Appeals, En Banc, G. R. No. 188492, August 28, 2018.*
- *People's Broadcasting (Bombo Radyo) Phils., Inc. v. Secretary of Labor, G. R. No. 179652, May 8, 2009.*
- *St. Martin's Funeral Homes v. NLRC, En Banc, G. R. No. 130866, 16 September 1998*.
- *San Miguel Corporation Supervisors and Exempt Union v. Laguesma, G.R. No. 110399, August 15, 1997.*
- *San Miguel Foods, Inc. v. San Miguel Supervisors and Exempt Union, G.R. No. 146206, August 1, 2011.*
- *New World International Development v. New World Renaissance Hotel Labor Union, G.R. No.197889, July 28, 2021.*
- *Sara Lee Philippines, Inc. v. Macatlang, et al., G. R. No. 180147, January 14, 2015,* citing cases.
- *Teng v. Pahagac, G. R. No. 169704, November 17, 2010.*

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