

Formalizing the Informal: A Critique of the Proposed Magna Carta for Workers in the Informal Sector

Allan Jose J. VILLARANTE*

Introduction

This paper attempts to critique the proposed Magna Carta for Workers in the Informal Sector which was introduced by former Rep. Bellaflor J. Angara-Castillo at the House of Representatives in 1999.¹

The country's informal sector (IS) plays a significant role in creating employment, producing goods and services, and augmenting income even to the extent that it has tremendously helped keep the economy resilient. This was proven during the Asian economic crisis that beset the region in the 90s. Unemployed and laid-off workers easily shift to small-scale household production to earn a living. As such, the informal sector contributes roughly about 44% to the country's GDP (Domingo, 2004; Templo & de Leon, 1992). The sector is full of potentials. Aside from being a rich source of vote for any politician, the IS serves as a reservoir of

* Special Consultant for Legislative Affairs, Office of the Rep. Roseller L. Barinaga, Chairman, Committee on Labor and Employment. Concurrent to his being Rep. Barinaga's Special Consultant for Legislative Affairs, the author holds the position of Supervising Legislative Committee Researcher II at the Committee on Basic Education and Culture in the House of Representatives. He was also the bill drafter and speechwriter of then House Majority Leader Rep. Bellaflor J. Angara-Castillo of the Lone District of the Province of Aurora.

opportunities for the domestic economy (Myint, 1986; Todaro, 1994) if only the skills and know-how of its broad memberships can be honed toward genuine and actual productivity.

The informal sector comprises the largest bulk of the country's total workforce, constituting an infinite variety of sub-sectors and, undoubtedly, "is one of major forces in the Philippine economy" (Yuzon, 2004, p. 2). In economic parlance, IS is usually unregulated family-owned and/or small scale enterprises that use labor-intensive and adaptive technology, where operating in competitive markets, workers rely on non-formal sources of education and skills (Yuzon, 2004, p. 2). The International Labour Organization (ILO), in fact, maintains that as a "rapidly emerging sector," (Yu, 2002) the IS is "a force to reckon with, insofar as its size and contribution to economy is concerned" (Tolentino, Sibal, & Macaranas, 2001, p. 135). It observed that the sector is "highly heterogeneous [or diverse], encompassing production units of different features, and in a wide range of economic activities, as well as people (workers, producers, employers) working or producing under many different types of employment relations, and productive arrangements."

Consistent with this definition, the National Census and Statistical Board (NCSB) in 2002 adopted a rather more specific characterization of the informal sector of the economy as "units engaged in the production of goods and services with the primary objective of generating employment and incomes to the persons concerned. It consists of household unincorporated enterprises that are market and non-market producers of goods as well as market producers of services."² Enterprises under this category are operated and, more so often, financed with very meager capitalization from the workers' own pocket. Workers in the sector often employ their own family members as to do away with the legal burden of complying with minimum wage requirements or, or in some cases, employ less than ten workers on a continuous basis. Participants in the sector are categorized as unregistered, undocumented, untaxed, uninsured, disorganized and doing irregular economic activities, and are often considered as engaged in small-scale entrepreneurship or self-employed activities.³ They include, among others, "vendors, hawkers, petty traders, the small neighborhood retail store owners and their assistants, the watch-your-car boys, the shoe shine boys, the tricycle and pedicab drivers, housewives and homeowners engaged in small business and subcontracting jobs, as well as the micro and small entrepreneurs and the self-employed" (Yuzon, 2004, p. 2).

In his paper, Dr. Isagani Yuzon (2004) suggested some relevant assumptions that confirm the earlier proposition that IS constitutes the largest of the country's total workforce: 1) that it is the IS that absorbs displaced workers, forced retirees, educated unemployed, etc; 2) that the sector certainly has become a buffer zone cushioning the perennial impact of unemployment and/or underemployment being experienced in the formal sector;⁴ 3) that the informal sector invigorates the domestic market, gives the poor a comparative purchasing power and ensures that the products of the formal sector trickles down to the poorest segments of society; 4) that the IS assumes the gap which government has failed to deliver in terms of basic services (Yuzon, 2004).

Within the informal sector, the biggest portion is composed of the sidewalk vendors, who can be sub-categorized depending on the type of industries and clients they engaged with in their respective economic activities. There are also women and children (below the legally prescribed age of work) who are engaged in housekeeping. Most of them come to urban centers from remote areas and provinces to look for jobs. There are also unregistered micro-entrepreneurs who engage in various businesses and activities which can be considered informal since they do not pay direct taxes to the government. Likewise, small farmers, who indulge into selling their produce, are part of the IS. Even those who perform illegal economic activities like selling drugs, or those engaged in the illegal numbers game are said to belong to the informal sector. A number of IS come from the economically disadvantaged sector. Many live in slums and their daily earning too little to be able to meet their basic needs. Many of them lack both manual skills and literacy and have minimal access to formal employment. Being undocumented and with no asset for collateral and no books of accounts, the informal sector cannot access the services of the formal banking and credit systems. In effect, they resort into lending money through pawnshops and other informal means who charge them exorbitant interest rates. As a consequence, they get low income (Parilla & Cabanilla, n.d.). Given these circumstances, they have often become victims of exploitation and harassment in their respective workplaces, not to mention the difficulties they experience in accessing productive resources and in obtaining social protection⁵ and their being exposed to substandard working conditions, i.e., cramped workspaces, improper posture, fatigue, poor work tools, poor lighting and ventilation, heat and some chemical hazards, subcontracting for low wages, long hours of work, absence of fringe benefits, etc.

Urgency of the Measure

If there is any one sector of the economy that is most taken for granted—if not totally ignored—it is the informal sector. As things are going, it could not be denied that government is lukewarm about promoting the interest and welfare of the broad masses under the IS. Their issues and concerns have not been adequately addressed by policy makers because of lack of information and understanding as to the nature of the sector. Time and again, this is manifested in government's insensitivity to hear their demands for adequate income, housing, potable water system, health services, and social welfare benefits. As what is done perennially, the government simply draws out plans, programs and policies based on the formal sector's perspective. Worst, there are even local development workers, policy makers, and even legislators who hold the belief that the IS is nothing more than the urban poor, informal settlers and the marginalized sector in general (Parilla & Cabanilla, n.d.). As the country's system of governance becomes bloated with traditional politicians who are often caught recycling old time promises "for bridges where there are no urgency for their construction" or "offering a meager amount in exchange of votes during elections," the genuine needs of the workers in the IS are left in the sidelines and are, if not completely forgotten in the wilderness of campaign slogans and election promises.

Guided by the Constitution,⁶ Republic Act No. 7160 (The Local Government Code of the Philippines),⁷ the Social Reform Agenda of 1994,⁸ as well as by the provisions of Republic Act No. 8425,⁹ the Angara-Castillo Bill was envisioned to pursue pragmatic efforts to alleviate the state of the informal sector in the country. The Constitution provides for appropriate provisions that enhance both direct as well as indirect protection and support to individuals and groups belonging to the IS, while Republic Act No. 8425 prescribes for the "adoption of an area-based, sectoral and focused intervention to poverty alleviation¹⁰ wherein every poor Filipino family is empowered to meet its minimum basic needs of health, food and nutrition, water and environmental sanitation, income security, shelter and decent housing, peace and order, education and functional literacy, participation in governance, and family care and psycho-social integrity."

To belong to the informal sector means to bear the baggage of difficulties only legislative and policy reforms can adequately respond. S.V. Sethuraman (2001) enumerated a number of these

consequences that government should address to at least ease the plight of the already overburdened informal sector. These are: 1) exclusion from organized markets and opportunities;¹¹ 2) denial of access to key resources such as land, credit, infrastructure as well as opportunities, often under state control, to enterprises without legal status; 3) constrained access to incentives and benefits due to the following: a) market fragmentation and excess demand, i.e., rationing based on membership in social networks or 'connections'; b) informal institutions (e.g., inheritance and succession rules, business control) that constrain access, especially for women; and c) discrimination based on individual traits (gender, education, ethnicity, caste, etc.) rather than enterprise viability; 4) access to credit constrained also due to higher interest reflecting higher lending risk, a derivative of informality and negative policy bias; 5) constrained access partly the result of higher transaction costs relative to income and the absence of formal institutions underpinning transactions (i.e., protection of property rights, contract enforcement and dispute settlement); 6) operating without a premises, and being exposed to police harassment and penalties, etc. (Sethuraman, 2001).

The Angara-Castillo Bill was crafted resultant to the gaps strategically created by the passage of certain laws. The provisions of the Labor Code and specific issuances apparently do not provide enough protection to workers in the IS. For instance, while the Labor Code directs the Secretary of Labor to regulate employment of industrial homeworkers¹² and specifically mandates the employers to, among others: 1) respect homeworkers' right to self-organization; 2) immediately pay them after delivery of goods; 3) remit their contributions to the SSS, Medicare, and ECC; 4) not to deduct any amount from the homeworkers' earnings for materials lost, destroyed, soiled or damaged save for certain conditions; 5) treat them humanely; 6) provide conducive workplaces away from hazards and health threats; and, 7) avoid the employment of minors as homeworkers,¹³ observance have always been problematic. Even Republic Act No. 8425 itself gave neither assurance for the implementation of policies nor programs that advance the welfare of workers in the informal sector. The passage of Republic Act No. 6810¹⁴ does not adequately protect their rights and welfare either. Moreover, the enactment of Republic Act No. 7607¹⁵ and Republic Act No. 6877¹⁶ and its amendatory law, Republic Act No. 8289,¹⁷ do not guarantee adequate approach to emancipating these workers despite the assurance of government assistance."¹⁸

Strengths of the Bill

The Angara-Castillo Bill was conceptualized to prescribe for the informal sector “an integrated, holistic and comprehensive policy instrument” that will ultimately place the IS in equal footing in the economic mainstream. It stressed and worked on the framework and principle of minimal regulation to “encourage the development of ingenuity and the entrepreneurial spirit among the citizenry” where “procedural rules and requirements for the IS are minimized in the act of registration, availment of financing, grants and other incentives and accessing other government services and assistance”(An Act, 1999, sec. 5). To hasten the growth and expansion of the informal sector’s economic activities, the Bill also encouraged the active participation of the private sector, the creation of local IS organizations as well as the support of LGUs (sec. 3).

Unlike the earlier laws that were enacted, the Bill provides for specific provisions which are apparently either absent or stiffly phrased so much so that they discouraged key players and stakeholders from being actively involved in the various programs government had introduced. The strengths of the Angara-Castillo Bill are categorized into the following: 1) promoting administrative reforms; 2) assuring for delivery of services; 3) prescribing for economic benefits and incentives; 4) strengthening of social protection; and 5) recognizing the role of private sector participation.

Administrative reforms

Fees and license. It provides for a very minimal registration and license-to-operate fee of P50.00 to be paid at the nearest LGU where the IS operates (An Act, 1999, sec. 5). Likewise, the measure prescribes for very minimal annual dues on net assets or capitalization to be used for approved IS development programs (sec. 6).

Establishment of IS Development Fund at LGU level. The measure proposes an additional 10% allocation from the government’s annual national budget to be appropriated proportionately in accordance with each LGU’s IRA and to be utilized for the implementation of livelihood programs pursuant to the provisions of the Bill. Priority shall be given to income generating programs for the so called poorest of the poor. The emphasis of the programs shall be

focused on micro-credit programs and schemes through the mobilization of those in the IS with no assets to engage in self-employment and income generating activities (An Act, 1999, sec. 11).

Establishment of IS Council and local bodies. Mandatory establishment of Informal Sector Division or Bureau, under the office of the Provincial Governor or City/Municipal Mayor to implement, coordinate and monitor all business activities or enterprises and intervene on IS-related problems and concerns under their respective jurisdictions (sec. 25). The Council shall be the primary agency responsible for the promotion, growth and development of the IS in the country by way of facilitating and closely coordinating national efforts to promote the sector's viability and growth, including the provision of an integrated program for skills enhancement, literacy and education, health services, social welfare and services, assistance in the tapping of local as well as foreign funds, and other functions relative to the attainment of the objectives and policy of the measure (sec. 20).

Establishment of Livelihood Resource Center. Establishment of IS Livelihood Resource Center in every city/municipality to enhance access of assistance and support to disadvantaged members, particularly in remote rural areas (An Act, 1999, sec. 26-27).

Assuring the delivery of services

Eligibility for Government Assistance. To promote fair play and justice, all qualified IS shall enjoy the benefits including, but not limited, to the training and seminars that appropriate government agencies may provide to enhance the technical know-how of the various stakeholders in the IS.

Inclusion of IS in Development Plans. Formulation and incorporation of development plans and programs that will address the socio-economic needs of the IS in the NEDA (An Act, 1999, sec. 28), LGUs (sec. 16); and other relevant government agencies (sec. 29).

Prescribing economic benefits and incentives

Tax Holidays. In the measure, license and building permit fees and other business taxes are given exemptions from both local and national taxes.¹⁹ The exemptions and other benefits, however, may be forfeited in cases where a violation of the provisions of the measure is committed (An Act, 1999, sec. 13; sec. 18-19).

Strengthening social protection

Institutionalization of employment contracts. The Bill formalizes contractual working arrangements into three categories: *Daily Basis*, *Monthly Basis*, or *'Pakyaw' Basis*. To ensure legal protection, an IS worker and the employer will now be required to enter into a written contract²⁰ where the following basic provisions are stipulated: working arrangement/mode; period/duration of employment; compensation and mode of payment; computation of contributions for social security and medical insurance; computation of leave deductions; duties and responsibilities; working hours and day-off schedule; and living quarters or sleeping arrangements (for live-in workers). A written parental consent shall be required in cases where minors are employed (An Act, 1999, sec. 40; sec. 44-45). A worker of minor age shall not be employed in any hazardous work, activity or undertaking. Neither shall he/she be exposed to hazardous working conditions (sec. 44). Where the employment of an illiterate worker is allowed, the employer or management staff shall be required to explain the content of the employment contract in the presence of a duly designated representative from the LGU or barangay (sec. 38). Likewise, medical certification, the cost of which shall be borne by the prospective employer, will be made a prerequisite for employment (sec. 39). The Angara-Castillo measure also prohibits any employer to oblige a worker to use his/her future services as collateral for any loan or advances made or to be made (sec. 46). Neither shall the worker of minor age be mandated to work in payment of a loan or liability incurred by a parent, guardian or relative (sec. 51). To ensure that workers in the IS receive their regular wages on time and be given freedom to disburse them, the Bill provides for a mandatory payment of wages directly to them, at least twice a month. Deductions from said wages by the employer shall be prohibited (sec. 43). Even a parent, guardian or relative is prohibited from borrowing against the compensation of the relative-worker of minor age without the latter's express written consent (sec. 51).

Equalization of workers' rights and welfare. The Angara-Castillo Bill laboriously provides for the definition of the rights (An Act, 1999, sec. 30-31; sec. 49-50) benefits and incentives (sec. 33-34) of those in the IS, including a prohibition against hazardous work and conditions (sec. 49). It also includes well-crafted provisions on the normal hours of work (sec. 56) provision for the basic necessities of a live-in worker and prohibition against withdrawing or holding in abeyance these provisions as punishment or disciplinary action (sec. 55); regular working days (sec. 57); longevity pay (sec. 58); clothing allowance (sec. 59); Vacation Leaves (sec. 60); Maternity/Paternity Leaves Benefits (sec. 61); and 13th Month Pay (sec. 62).

Recognizing private sector participation

Participating Private Sector Benefits. The Bill provides for the benefits and incentives to participating private sector ("An Act," 1999, sec. 37).

Critical Analysis

But the Angara-Castillo Bill²¹ is never intended to be the perfect solution to fill the gaps and vacuums created by the passage of preceding laws. Nevertheless, the proposed measure is seen as an alternative medium upon which the shortcomings of earlier laws could be answered. As such, it needs to be scrutinized carefully. Modifications have to be introduced to make it more focused and relevant to its stakeholders.

The following are reactions and comments²² that must be given utmost consideration in the redrafting or re-crafting of the Bill. They can be classified into five major issues: 1) simplifying administrative processes; 2) strengthening education campaign programs; 3) promoting ideals of good governance; and 4) advocating productivity, sustainability and accountability.

Simplifying administrative processes

On the first issue, stakeholders believe that the failures of early laws meant to promote and advance the welfare of the informal sector can be attributed primarily to the complexity of administrative processes involved in the registration of so-called

informal enterprises. Along this line, specific concerns were raised to include: 1) objections to mandatory registration; 2) revocation of business authority; and 3) arbitrary coverage.

Objections to mandatory registration. During several informal consultations and meetings, various representatives of the informal sector vehemently objected to the proposal for mandatory registration prior to the grant of incentives and benefits under the measure. The mandatory registration²³ and grant of incentives and benefits promised under the Bill was alleged to be a trap in a witch hunt to expose the so-called underground economy and subject them to stiff regulation. Corollary to this is the deletion of the sunset provision which proposes a deadline for the mandatory registration of those belonging to the sector. Accordingly, if the government is sincere enough to assist and promote the interest and welfare of the informal sector, the prescription of registration should be made open and on-going to allow the broad membership of the sector to appreciate first the benefits of coming out in the open. Putting in place a deadline for registration for recognition would not be consistent with the vision of the government to assist the sector as there are members of the IS, individuals or groups, which prefer to learn more about the nitty-gritty of the system before becoming part of it. The most pragmatic example here is that “very few come to join an organization without even asking what the organization is all about and the benefits that would come to anybody who enters as a member.”

Continuing registration and/or accreditation of those in the IS, thus, should be encouraged instead of setting a deadline or expiration for their accreditation. It is important that an IS is given an opportunity to take part in the process since discriminating some of them just because they are not able to register would only encourage illegal operation.

Revocation of business authority. Stakeholders are quite wary about the provision that revokes and cancels the authority to do business when a concerned IS fails to commence his business operation at a given period of 45 days from the grant of such authority to operate (An Act, 1999, sec. 7). The grace period of granting tax holidays and other benefits not to exceed five years from the date of the registration has also raised serious concerns on the part of the stakeholders (sec. 19).

Here, some relevant questions may be asked: “To what extent can it assert the rules and regulations of grant-giving institutions, micro-finance institutions and/or other lending agencies on any IS who may be granted the benefits and incentives provided for under the law? Can the government and/or private micro-finance institutions, for instance, demand that member IS comply with the rules and regulations set forth by the former in the process of providing financial and/or technical assistance? How can the measure ensure the sustainability of the economic activities of the IS? Can it, likewise, ensure the sustainability of the financial and/or technical assistance provided for by the government and the private sector to the IS?

Arbitrary coverage. The coverage and scope of the measure has become arbitrary to the effect that it excludes the rest of the stakeholders which might not have been defined and included in the list (An Act, 1999, sec. 8). Even Horn (2001) admitted having faced serious problems organizing workers in the informal sector because of the “insufficient information and statistics about the informal sector, especially the work done by women in this sector” (p. 45). The proposed measure does appropriately capture the definition of “informal sector” to include and cover all the sub-sectors that we can thought of under the IS nomenclature. As much as the nature and operations of the IS are varied and unique, it is important that the law must give a glimpse of recognition not only to one or more informal sub-sectors but to everyone in the sector. Failing to identify a sub-sector under the IS would entail a denial of incentives and benefits due to the sector. Including those enterprises and industries which are not supposed to belong to the sector to benefits not meant for them would constitute a diminution of incentives and benefits granted to the informal sector under such law.

Strengthening education campaign programs

Another important concern that needs to be looked into is the prevalent problem of information dissemination. This is very crucial for the success envisioned by the measure. Stakeholders should be made to understand and appreciate the significance, for instance, of mandatory registration and the legal implications of why registration should be made a pre-requisite for the grant of assistance, e.g., in applying for credits and loans with government financial institutions. The implementing rules of the measure should provide for a systematic approach toward ensuring full

understanding of the measure by beneficiaries in order to sustain and enhance the sector's productivity. Without such mechanism there could be a repeat of the failures²⁴ in Republic Act No. 6810,²⁵ Republic Act No. 7607,²⁶ Republic Act No. 6977²⁷ and its amendatory law Republic Act No. 8289,²⁸ and Republic Act No. 8435.²⁹ There is, therefore, an urgent need to strengthen the provision on information dissemination not only about the measure per se but also on the benefits that it brings to the IS. When this issue is resolved by an appropriate provision of law, there is no reason why people would not be able to appreciate the significance of their involvement in any IS program the government would put in place.

Promoting ideals of good governance and accountability

Good governance is one major issue that is often considered as a potent driving force to attract people's participation. Where there is questionable governance in any society, citizens tend to become either indifferent or reactive to any program that government would pursue. A policy that promotes the ideals of good governance and accountability on the part of those who are in government, therefore, is necessary to entice people to participate actively and get involved in the implementation of government programs.

Under this characterization are three issues that informal sector stakeholders raised in the Angara-Castillo Bill. These are the following: 1) bloated bureaucracy; 2) genuine decentralization and devolution; and 3) mandatory consultations and public hearings.

Bloated bureaucracy. The creation of an Informal Sector Development Council especially responsible for the supervision and accreditation of the IS is unnecessary and only serves as another bureaucratic red tape which could only derail the efficient delivery of services to the beneficiaries. The LGUs should take charge instead.

Genuine decentralization and devolution. To effectively respond to the needs of the IS, the measure should give more leeway for LGUs to exercise full jurisdiction over the delivery of basic social services to people—primary health care and family planning, basic education, nutrition, housing, water supply and sanitation. Likewise, enforcement of certain regulatory powers and

implementation that affects the IS should be devolved to the LGUs.

Mandatory Consultations and Public Hearings. Conduct of consultations, dialogues and public hearings that affect the IS should be made mandatory with the participation and involvement of the concerned sector prior to the implementation of any project or program. This specific provision safeguards what has been realized from the study of Tolentino, et al. (2001) where decision-making process has been polarized and accorded only to certain groups among the IS who, accordingly, “have participated in the institution of some policies and the implementation of relevant programs” with the end of serving their own advantage (Tolentino, et al., 2001).

Advocating productivity and sustainability

Stakeholders in the IS are a little cautious about the specific provisions of the proposed Magna Carta. They are wary about supporting a Bill, which, unlike its precursory laws that sought to alleviate the state of the IS, would not enhance their sector's productivity and the sustainability of their enterprises. Below are the specific concerns that need to be addressed in the course of refining the current draft of the proposed Magna Carta.

Ensure productivity. Corollary to the education campaign that is needed, it is also important to teach those in the sector intervention programs which will provide them access to DOST generated/sourced technologies and science-based approaches to resource and product management to meet the minimum basic needs and to facilitate technology based-livelihood opportunities through the efficient and effective delivery of S&T services. This will maximize and ensure greater productivity among the IS.

Conduct of periodic review and adjustment of economic indicators for the IS. To simplify and ensure that real members of the informal sector would benefit from the proposed measure, the Angara-Castillo Bill specifically defined the IS as referring “to a category of individuals or partnerships of people involved in any business activity or enterprise whose total assets value, inclusive of the capital investments, does not exceed P10,000.00 for single proprietorship, P25,000.00 for partnership ventures and/or whose annual income must not exceed P35,000.00 and P150,000.00, respectively” (An Act, 1999, sec. 4f). The Bill, however, qualified

that such definition shall be subject to review and adjustment upon the recommendation by the appropriate government agencies taking into account inflation and other economic indicators.

Standardized Wage Rate. While it is important to provide for a standardized wage rate for workers in the IS, the Angara-Castillo Bill seems to provide for a rather stiff regulation for wages (An Act, 1999, sec. 42). It has been suggested that standardization of wage rates involving workers in the IS be left to the Tripartite Regional Wage Boards (TRWBs) subject to the periodic review and consideration of NEDA and the NAPC. It is, thus, suggested that the provision in the Angara-Castillo Bill be simplified to the effect that: 1) the NEDA and the NAPC be mandated to include specifically the IS in its periodic economic evaluation; and 2) respective TRWBs be mandated to draw up the standardized wage rates for the IS workers.

Improving access to finance. To make the objectives of the Bill attainable, it is important for Congress to introduce innovative financing schemes using non-traditional sources and schemes such as cooperatives and associations, as well as equity financing and venture capital.

Quesada's observation (1992) is also worth noting when he pointed out that *Kalakalan 20* has enticed only a handful of enterprises to register because the so-called "informals" find the grant of tax exemption an inadequate incentive. "What informals need and want are on-tax incentives as a proven experience of NACIDA in 1984 when it removed all financial benefits and concentrated on developmental (not regulatory) thrusts such as market encounters, common service facilities and skills training" (Quesada, 1992, p. 17).

Enhancing coordinated performance and accreditation standards

Setting of standards for the operation and accreditation of IS organizations would be very essential. NAPC or any agency of government with oversight on the IS are in a position to exert influence. The example shown by NATCCO on deposit insurance facility is worth looking into as NATCCO's blueprint provides the opportunity for setting standards. Coordination between the standards set by government is crucial.

Clarified and simplified tax-exemption procedures

The broad regulatory framework for IS in the Philippines is conducive to their growth. The procedures for exempting the IS from tax should be clarified and simplified and such exemptions should not be withheld unreasonably. The grant of incentives to the IS is a necessary component if government is indeed committed toward integrating those in the informal sector with the formal economy. Accordingly, the basic premise behind the grant of these incentives is that “with lesser bureaucratic intervention, small business will be allowed to develop on its own. If micro enterprises can be allowed to grow into small businesses, they will be in a better position to generate the necessary employment and alleviate poverty” (Lagua, 2004).

Empower IS organizations to manage their own savings

Registered IS organizations should be permitted to handle voluntary savings while satisfying agreed standards of accounting and reporting as contrary to the stricter rules under the Banking Act. Review of said law to this effect may provide an opportunity to consider these issues. IS organizations should be freely allowed to develop effective mechanisms for self-regulation, with guidance from established institutions.

Conclusion

Despite the economic growth that the Arroyo administration is flaunting, realities show that benefits of income and employment to the households or families have not really trickled down to the grassroots (Quesada, 1992). A cursory look at the programs and issues being confronted by the IS only proves that there remains a number of things to be pursued if government is really serious in protecting and promoting the interest and welfare of millions of Filipinos within the informal economy.

Sethuraman (2001) suggested the adoption of some social protection measures for workers in the informal sector in order to reduce their vulnerability. He pointed out that to be effective, a new alternative strategy has to be put in place. This strategy should be able to eliminate the conditions underlying workers' income insecurity and vulnerability rather than just “coping” with the risks. Accordingly, “this calls for a change in the institutional

environment, which however poses challenges but also presents new opportunities.” It is important that reforms in institutions be directed towards “eliminating informality” that affects the informal sector. He mentioned of some approaches like: 1) making them more friendly and providing for incentives to comply, keeping requirements to a minimum; 2) lowering the cost of compliance, partly through simplified procedures, so as to make their application more transparent and rule-based; 3) strengthening institutional capacity to remove ambiguity in institutions and law enforcement; 4) lowering transaction costs through protection of property rights, contract enforcement, etc.; and 5) making the policy environment more friendly by removing the bias against the informal sector so as to enable micro-enterprises to augment their productive capacity. He argued that such social protection measures should be sustainable to be able to contribute to the improvement in overall efficiency and equity of the sector.

To accomplish this, it is not enough for government, especially for Congress to merely propose measures meant to enhance and realize these benefits. The challenge for Congress remains to be in coming up with a law that would ensure meaningful participation in sustainable development planning.

The Angara-Castillo version of the Magna Carta for Workers in the Informal Sector had been laudable in its attempt to help alleviate the state of the informal sector in the country. In fact, it introduced a number of valuable and landmark provisions that should be reconsidered should legislation for the informal sector ever be crafted. Nevertheless, it needs serious refinement. It remains to be an effort that very few members of Congress and leaders of government would like to delve and venture into institutionalizing nowadays.

It is unfortunate though that while politicians tow the line to solicit votes from the *masa* who comprises the informal sector, after each election the latter gets left behind in the streets hoping that someday they would finally have a law that will eventually protect their interests and welfare.

Recommendations

After threshing out all the issues, it is important to recommend some relevant strategic approaches toward the enactment of the Magna Carta for Workers in the Informal Sector.

1. *Consolidation of forces.* Advocates of the Magna Carta should organize the informal sector according to the categories they belong. This is a taxing job but there is no way to realize what each sub-sector really needs if they cannot be organized. The consolidation of the informal sector is important to be able to effectively align and consolidate their reservations, comments and suggestions, and minimize hindrances and objections in the course of public hearings to be conducted by the legislature.
2. *Massive education campaign.* There is no substitute to education campaigns in any kind of advocacy. Where the informal sector is organized, it is very easy to conduct information dissemination. Informal sharing through the various modes of information dissemination would be an effective tool for education. NGOs and the appropriate agencies of government like the NAPC, the PIA, and private sector institutions may be able to work hand-in-hand in a comprehensive and systematic way. Informal consultations and dialogues to be initiated by these agencies or institutions would be very helpful in facilitating the subsequent formal deliberations to be conducted by Congress. Education campaign programs will definitely make people, especially those not belonging to the sector, become aware and appreciate the plights of the informal sector. This approach can create a mass of advocates and support system from other sectors.
3. *Crafting of a working draft.* Bills filed in Congress are not always considered for approval *in toto* but rather as working drafts for consideration by various committees. It is not, therefore, required that proponents of certain measures file a perfect bill, whether in form or in substance. The committees tasked to deliberate on measures always have the hand in introducing amendments, whether by deletion, addition or semantic modification. It should be noted, however, that proponents of the bills to be filed should already include the salient features that they want incorporated in the draft.
4. *Identifying champions.* It is not enough to simply educate people about the informal sector. It is equally important that champions in both Houses of Congress be identified. There are several modes of accomplishing this. One way is by identifying the causes and issues a particular legislator

would tend to advocate. Another way is to identify the people who have access to these legislators at either personal or professional levels.

5. *Involvement in the legislative process.* Active participation by stakeholders is a crucial component in the legislative process. It is not enough to simply craft a bill that incorporates the very sentiments of the sector. Finding champions who can verbally advocate the sector's concerns is not enough either. Stakeholders have to be vigilant during the entire legislative process. While it is not always advisable to encourage everyone in the informal sector to join and attend the congressional deliberations and public hearings on the measures affecting them, it is suggested that a speakers' bureau be organized for the purpose of identifying leaders who can speak out and participate in the congressional public hearings and deliberations.
6. *Media blitz.* An effective advocacy tool employs media as a source of information not only for the stakeholders but also for the legislators and policy makers concerned. Media presence and/or exposures would definitely provide a chilling effect for those who are indifferent, as well as an inducement for politicians who want media mileage.
7. *Networking with the right congressional staff.* Liaison with congressional staff members and with employees of the secretariat of both Houses of Congress is an effective mechanism to ensure that a bill one is advocating would be appropriately handled, monitored and pushed. Without a network within Congress, it is very difficult to get information even on the actual status of the measure. Networking is not just creating mere contacts. It is building rapport, institutionalizing and implanting an advocate within the system. Congressional staff members are important ingredients in any legislative process. They are the usual mouthpieces, thinkers and planners of the legislators. They arrange the schedule of committee deliberations their principals should attend. They echo prospective popular stance on issues. They help plan for their advocacies and platform of action. They represent their principals in meetings, conferences, fora and workshops. They speak in their behalf. In other words, they are their alter-egos.

8. *Malacañang clique.* While the role of the President comes in late in the legislative mill, building a clique in Malacañang would be beneficial for the realization of any advocacy. The President, upon the recommendation of a close aide or adviser, may endorse or certify any legislative measure as urgent. While congressional action is not always guaranteed by the mere issuance of a "Presidential Certification of Urgency," getting one is already a remarkable achievement toward the realization of a Bill's congressional approval. Having the right connections in Malacañang is not only beneficial in the issuance of a "Presidential Certification of Urgency," it is also crucial in ensuring that the Bill passed and approved by Congress will ultimately be signed into law and not vetoed by the President upon the insinuation of those who are against the measure.

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Endnotes

¹ Rep. Angara-Castillo first filed the propose measure during her second term as Representative of the lone district of Aurora. The same version was refiled by Rep. Juan Edgardo M. Angara who succeeded her, and Chairman of the House Committee on Labor and Employment Rep. Roseller L. Barinaga.

² This definition adopted by the NCSB on November 6, 2002 was formulated based on the recommendation of informal worker and other participants in a series of ILO-UNDP workshops on the promotion and protection of the informal sector (Domingo, 2004).

³ Those engaged into such industries may or may not have hired workers. They have low level of organization and the technology they use in conducting their business is often far from advanced.

⁴ Yuzon argued that the IS ensures a continuing inflow of income and wages despite unemployment and/or underemployment realities in the formal sector, thereby minimizing the impact of high inflation and real income fluctuation on fixed wage-earners.

⁵ Their employment is always insecure and precarious and their incomes irregular and unstable (Parilla & Cabanilla, n.d.).

⁶ See Art. XII, Secs. 1, 6, 12, 13, 14, and Art. XIII, Secs. 1, 2, 3, 5, 7, 9, and 14, Constitution of the Philippines, 1987.

⁷ This legislation empowers local authorities to create development committees in order to strengthen the participation of its constituents in the development process. Its significance lies in the bottom-up decision making process whereby interventions generated are product of consultations and consensus among stakeholders. Further, the creation of a committee for the informal sector will assist the local legislative council in crafting a policy framework and in creating concrete interventions for the sector.

⁸ Before the Social Reform and Poverty Alleviation Program of 1998 was introduced, then President Fidel V. Ramos advocated the Social Reform Agenda of 1994 which explicitly addressed workers in the informal sector. They were identified as one of the beneficiaries of proposed policy reforms which focused on the following concerns of the sector: absorption into the formal labor sector, protection by law or laws, access to programs and services for workers of the formal sector, participation in decisions affecting their interests, and organization into unions, cooperatives and other forms of associations.

⁹ Enacted on July 28, 1997, this law was entitled “An Act Institutionalizing the Social Reform and Poverty Alleviation Program, Creating for the Purpose the National Anti-Poverty Commission, Defining Its Powers and Functions, and for other Purposes.”

¹⁰ The said law is aimed at actively pursuing asset reform or redistribution of productive economic resources to the basic sectors including the adoption of a system of public spending which is targeted towards the poor.

¹¹ Parilla & Cabanilla (n.d.) attributed this to the informal sector's invisibility and vulnerability.

¹² See Art. 155 of the *Labor Code* and Arts. 154 & 155, Rule XIX, Book III, Implementing Rules of the Labor Code. For the definition of homework, refer to the *ILO Convention on Homework* (1996).

¹³ See Department Order No. V of the Rules Implementing Book III of the Labor Code on Employment of Homeworkers.

¹⁴ Enacted on December 14, 1989, this law was entitled “An Act Establishing the Magna Carta for Countryside and Barangay Business Enterprises, Granting Exemptions from any and all Government Rules and Regulations and other Incentives and Benefits Therefor, and for other purposes,” and is more popularly known as the *Magna Carta for Countryside and Barangay Business Enterprises* (*Kalakalan 20*). As a special legislation for the informal sector, *Kalakalan 20* attempted to formalize countryside and barangay business enterprises by exempting them from certain taxes and regulations. However, its implementation was not so successful because the law did not provide for adequate infrastructure facilities—an important element in promoting the growth of business enterprises. Aside from encouraging the start-up of enterprises, the law is aimed at encouraging those in the underground economy to formalize their contribution to national growth.

¹⁵ This law is popularly known as the *Magna Carta for Small Farmers*.

¹⁶ This law is popularly known as the *Magna Carta for Small Entrepreneurs*.

¹⁷ Enacted on September 30, 1997, this law is entitled as “An Act to Strengthen the Promotion and Development of, and Assistance to Small and Medium Scale Enterprises, amending for that purpose Republic Act No. 6977, otherwise known as the “*Magna Carta for Small Enterprises*” and for other purposes.”

¹⁸ The law states that for a business to “qualify for assistance, counseling, incentives and promotion under this Act,” it has to be: a) duly registered with the appropriate agencies as presently provided by law; b) solely owned and capitalized by Filipino citizens or, at least, 60% of its capital or outstanding stocks are Filipino-owned where the enterprise is a juridical entity; c) a business activity within the major sectors of the economy, namely: industry, services, including the practice of one’s profession, the operation of tourism-related establishments, and agri-business,

which for purposes of this Act refers to any business activity involving the manufacturing, processing, and/or production of agricultural produce, excluding farm level agriculture/crop production; and d) not be a branch, subsidiary or division of a large scale enterprise nor may its policies be determined by a large scale enterprise or by persons who are not owners or employees of the enterprise (Rep. Act No. 8289, sec. 4).

¹⁹ Except real property and capital gains taxes, import duties and other taxes on imported articles. In addition, any and all income, receipts and proceeds derived from their business operations shall be excluded for the computation of gross income for purposes of computing the individual income tax of the members thereof.

²⁰ All working arrangements entered into by IS workers shall be covered by a written employment contract, in a language or dialect understood by both employer and worker, duly signed by both the employer and the worker.

²¹ During the 13th Congress, the Bill was refiled by Rep. Roseller L. Barinaga who assumed the principal authorship upon the completion of Rep. Angara-Castillo's third and final term in the Philippine Congress.

²² These were raised by various stakeholders during informal consultations and dialogues.

²³ The *Kalakalan 20 Law* required the registration of countryside business entities with the nearest LGU they are located for a fee of P250.00. To qualify, however, the law required that: (a) the number of employees in a given countryside business entity does not exceed twenty; (b) the assets of said entity does not exceed P500,000.00, at the time of registration; and (c) the principal office and location of business operation are in the countryside.

²⁴ There were several observations made that the implementation of above laws failed due to either: 1) appropriate agencies of government tasked to disseminate information about the content of the laws, their objectives and significance were not conscientious enough to perform their mandate; 2) a number of stakeholders took the legislation as a means of "witch-hunting" non-taxpaying members of the sector; and 3) the fees and capitalization were not affordable to the stakeholders considering the meager return of investments.

²⁵ In the study conducted by the Center for Research and Communication (now University of Asia and the Pacific), lack of dialogue with the target sector prior to enactment of the law was one of the primary reasons for the failure of *Kalakalan 20*.

²⁶ This law is popularly known as the *Magna Carta for Small Farmers*.

²⁷ This law is popularly known as the *Magna Carta for Small Entrepreneurs*. Enacted in 1991, this law attempted to promote small and medium enterprises by creating a Small and Medium Enterprise Council and a Small Business Guarantee and Finance Corporation. Under this law, informal sector enterprises can avail of credit guarantee by the Corporation, and all banks must allocate five to 10 percent of their loan portfolios to lend to small and medium enterprises.

²⁸ Enacted on September 30, 1997, this law was entitled “An Act to Strengthen the Promotion and Development of, and Assistance to Small and Medium Scale Enterprises, amending for that purpose Republic Act No. 6977, otherwise known as the “*Magna Carta for Small Enterprises*” and for other purposes.”

²⁹ Commonly known as the *Agriculture and Fisheries Modernization Act* (AFMA), the law modernizes the agriculture and fisheries sector by providing a mechanism to improve their profitability in preparation for the challenges of globalization through an adequate, focused and rational delivery of necessary support services. The law prescribes, among others, that the “State shall ensure that the poorer sectors of society will have equitable access to resources, income opportunities, basic and support services and infrastructure especially in areas where productivity is low as a means of improving their quality of life compared with other sectors of society. It also seeks to provide social and economic adjustment measures that increase the productivity and improve market efficiency’ while ensuring the protection and preservation of the environment and equity for small farmers and fisherfolk.”