Introduced by MP ROMEO K. SEMA

EXPLANATORY NOTE

With the establishment of the Bangsamoro Government in Southern Philippines' Muslim Mindanao as a result of the overwhelming ratification of Republic Act 11054, better known as the "Bangsamoro Organic Law," the Bangsamoro people, who have been at the receiving end of historical injustices, have the unique opportunity to freely determine their political, social, economic, and cultural way of life in a manner that is consistent with their beliefs, traditions, aspirations, and shared cultural heritage. The Bangsamoro Transition Authority therefore must rise to the occasion to legislate a Bangsamoro Labor and Employment Code (BLEC) that captures not only the aspiration and culture of the Bangsamoro people, but enshrines protection to labor and social justice pursuant to the mandate of the 1987 Philippine Constitution and Republic Act No. 11054 or the Bangsamoro Organic Law.

The proposed BLEC was drafted through a series of consultation work involving the different sectors and local government units of the five provinces and two cities of the region. These consultations and series of writeshops involving responsible and experts on labor and employment were realized through technical assistance and support from the International Labour Organisation (ILO) and other development partners as The Asia Foundation (TAF) and the Centre for Humanitarian Dialogue (CHD).

The proposed regional Labor Code's structure reflects the hierarchy of labor and employment policy goals of the 1st Bangsamoro Development Plan 2020-2022; adhered closely to the Labor Code of the Philippines; and aligned with binding international conventions, international labor standards, and non-binding recommendations for the promotion and protection of the rights of workers and employers.

Thus, it puts emphasis on development of human capital, and enhanced and expanded labor and social protection coverage not only to regular workers but includes the differently-abled persons, elderly workers, the non-plantilla workers in the public sector, and the informal sector workers, among others.

Book I underscored the different modalities for skills and entrepreneurship training to address the stunting of human capital and vulnerabilities of certain sectors like women, children, differently-abled persons, elderly workers, workers in the informal economy, Overseas Bangsamoro Workers (OBWs) and IPs. Skills and entrepreneurship training such as apprenticeship, learnership, and youth employment bridging programs to ensure access to employment opportunities, is combined with express provision of enforcement of compliance with

issued implementing regulations by the Ministry of Labor and Employment (MOLE) to prevent abuses or use of any of the programs to keep workers in forever-training arrangements and prevent them from obtaining regular work status and the attendant rights to receive minimum wage, to security of tenure and to organize and collectively bargain.

The types of employment in the BARMM is limited and simplified. Employment is regular, regular project or seasonal employees, and probationary with "control" as the test of the existence of employer-employee relations. It removes the many opportunities in the Labor Code of the Philippines to skirt compliance with the provisions on labor protection, including ENDO (end of contract) by defining the nature of labor-only contracting as a business of recruitment, supply or placement of workers to a principal regardless of capitalization or a license and a violation of the right to security of tenure.

Hence, protection to labor policy is mainstreamed in all facets of the employment cycle. For job matching and placement or employment facilitation, BLEC's preferred modality is through the Public Employment Service Offices (PESO), which it requires to be set up in all provinces, cities and municipalities in the BARMM with a system of accreditation for non-government organizations or educational institutions to establish and operate a PESO and job placement office.

Additionally, all employers in the BARMM are to submit job vacancy report and other relevant employment data to the Minister and for the MOLE to provide an up-to-date labor market information as well as the conduct of Special Recruitment Activities (job fairs) at least once every quarter. To secure the best possible terms and conditions of employment for every Bangsamoro desiring to work overseas as well as ensuring welfare services and assistance to Overseas Bangsamoro Workers (OBWs), the Ministry is mandated to implement the Recruitment Agency Regulations Act of 2020, the Overseas Bangsamoro Act of 2020 and such other laws that the Parliament may issue.

The BLEC adopted the minimum employment standards in the Labor Code of the Philippines as labor protection and with the Bangsamoro Tripartite Wage and Productivity Board as the minimum wage setting body for each and every subregion/province of the BARMM based on the set criteria as adopted in the BLEC.

The Bangsamoro cultural rights and identity are set out in a separate Book to emphasize the significance of the cultural peculiarities of the Bangsamoro and affords protection in the free exercise thereof.

BLEC also puts strong emphasis on social welfare and protection as set out in Book IV. It reflected the recently passed law on Occupational Health and Safety and codified all the social welfare and protection laws that exist outside of the Labor Code of the Philippines such as the expanded maternity leave benefits, Violence Against Women and Children (VAWC) leave, Solo Parent Leave, among others, but add more by providing for the prohibition against gender-based crime, a paid 15-day Quarantine Leave and the Right to Disconnect.

With respect to employment relations, BLEC reflected the Labor Code of the Philippines labor relations policy of bi-partism at the enterprise level through collective bargaining and workers' participation, and tripartism at the national and industry levels. For bi-partism at the enterprise level, the BLEC adopted the Labor Code's policy bias towards "federated approach" to union organizing over independent union organizing (minimum membership requirement is reduced but still a requirement), certification of sole and exclusive bargaining agent for specific bargaining unit, and modified the double majority rule in the determination of the exclusive bargaining agent to mean 50% plus 1 for purposes of determining the validity of the election and a simple majority for determination of the winning union. It likewise adopted provisions on collective bargaining process, acceptable bargaining behavior as a component of shared responsibility, process to be observed in the exercise of the right to strike or lockout, and depart by integrating the ILO "essential services" criteria in the exercise of the assumptive power of the Minister instead of the Labor Code's "indispensable to the national interest" criteria.

On dispute settlement, proposed BLEC provided for process and administrative machinery to settle labor dispute. Similar to the Labor Code, it is biased towards voluntary modes of settling labor dispute through conciliation-mediation and voluntary arbitration, with compulsory arbitration as the last resort. The Bangsamoro Labor Justice Administration embraces conciliation-mediation as a prior-resort to compulsory arbitration, and created its own Bangsamoro Labor Conciliation and Arbitration Board (BLCAB) and Bangsamoro Voluntary Arbitration.

The preparation of the Code started in July 2021, it went through a rigid process of consultations in the 5 provinces and 3 cities of BARMM and technical workshops, FGDs with experts on legal and labor matters and finished it before the end of the year 2021. The final draft was presented to the stakeholders including the representatives from BARMM ministries/agencies, Non-Government Organizations, management and labor groups and some BTA Parliament members on December 21, 2021 and to the BTA Committee on Labor and Employment.

As I was still the Minister of the Ministry of Labor and Employment or MOLE then, we submitted the BLEC Code on January 6, 2022 to the Office of the Cabinet Secretary for cabinet deliberation. But after almost 6 months that the BLEC was unmoving and being not a member of the Cabinet anymore, I, as the main author of the Bill decided to pursue it legislation by making it as a Committee Bill. In compliance with the process flow of passing proposed Bills, the BLEC was resubmitted to the BTA on June 16, 2022.

The BLEC or Parliament Bill No. 201 was included as an agenda in the BTA Parliament Order of Business in July 26, 2022 and was in the interpellation stage already when the Parliament was in recess due to the change of national leadership and subsequently appointed a new set of BTA Parliament members.

I am now submitting this as a private Bill of which its approval is earnestly sought.

MP ROMEO K. SEMA