

# TABLE OF CONTENTS

## CHAPTER I—THE CONSTITUTION AND PROTECTION TO LABOR

1.	Principles of Social and Distributive Justice as Found in Constitution and the Labor Code .....	1
2.	Constitutional Rights of Workers.....	3
3.	Labor Contracts are impressed with public interest; The Constitution Protects the Rights of the Workingman .....	5
4.	Principles of Social and Distributive Justice; Balancing of Interests in Case Worker’s and Management’s Rights Collide .....	6
5.	Social Justice Ceases to be an Effective Instrument for the “Equalization of the Social and Economic Forces” by the State when it is Used to shield Wrongdoing.....	7
6.	Social Justice Policy Mandates Compassionate Attitude Towards the Working Class; While the Constitution’s to Labor Does Not Condone Worngdoing, it Urges Moderation of the Sanctions that may be Imposed.....	7

## CHAPTER II—GEBERAL LABOR CONCEPTS

1.	Construction in Favor of Labor .....	9
2.	Burden of Proof is Always Upon the Employer to Show Validity of its Exercise of Management Prerogatives, Especially as Regards Termination of Employment.....	12
3.	“No Work-No Pay” Principle.....	13
4.	“Last In, First Out (LIFO) Rule.....	15
5.	“One Union-One Company” Policy .....	17
6.	“Equal Pay for Equal Work” Principle .....	20
7.	Non-Diminution of Benefits .....	20

**CHAPTER III—EMPLOYER-EMPLOYEE  
RELATIONSHIP**

1. Concept of Employer-Employee Relationship.....	22
2. Four-Fold Test .....	22
3. Not Every Form of Control Will Have the Effect of Establishing an Employer-Employee Relationship.....	24
4. Examples Where the Supreme Court Ruled that an Employer-Employee Relationship Exists.....	26
5. Examples Where the Supreme Court Ruled that there was no Employer-Employee Relationship.....	30
6. There Being No Employer-Employer Relationship, There can be no Compulsory Coverage Under the Social Security Act .....	30
7. Difference Between an Employee and Independent Contractor .....	31

**CHAPTER IV—PROBATIONARY  
EMPLOYMENT**

1. Contracting Out is Valid as an Exercise of Management Prerogative for as Long as it Complies with the Limits and Standards Provided by the Labor Code .....	36
2. Valid Independent Contracting or Sub-Contracting Arrangements.....	41
3. Labor-Only Contracting Arrangements Prohibited by Law .....	43
4. Whether the DOLE Certification that One is a Legitimate Job-Contractor Constitutes Sufficient Proof of Compliance with Requirements.....	51
5. Effects for Failure of Owner of Project to Require the Contractor to Post Bond .....	52
6. When are the Workers Deemed to be Performing Activities Which are “Directly Related to the Main Business of the Principal?” .....	52
7. Where the Principal Exercises Control, then Labor- Only Contracting Arrangement.....	53

**CHAPTER V—MANAGEMENT  
PREROGATIVE**

1. The Free Will of Management to Conduct its own Affairs to Achieve its Purpose Cannot be Denied.....	54
---	----

2. Examples of the Exercise of Management Prerogatives.....	56
--	----

**CHAPTER VI—CLASSIFICATION OF  
EMPLOYMENT**

1. Classification of Employees for Compensation Purposes is Essentially and Exercise of Management Prerogative.....	73
2. Article 280, Labor Code; Deconstructed.....	74
3. Regular Employment .....	75
4. Probationary Employees .....	76
5. Term Employment.....	88
6. Project Employment.....	93
7. Seasonal Employment.....	105
8. Casual Employment.....	107
9. Are Seafarers Regular or Contractual Employees .....	108
10. Managerial Employees.....	110
11. Supervisory Employees .....	112
12. Rank-and-File Employees.....	112

**CHAPTER VII—RIGHT TO  
SELF-ORGANIZATION**

1. Existence of Employer-Employee Relationship is Essential for the Determination of Whether or not One may Exercise Right of Self-Organization for Purposes of Collective Bargaining.....	113
2. Rationale for Unionization.....	113
3. Who May Unionize for Purposes of Collective Bargaining Negotiations .....	113
4. Salient Features of Republic Act No. 9481 .....	123
5. Falsification and/or misrepresentation in the Adoption of Constitution and By-Laws or as a Ground for Cancellation of Union Registration .....	132
6. No More Prohibition Against a National Federation Representing Both the Rand-and-File Union and the Supervisory Union in One Employer Unit.....	135
7. Relationship Between the Mother Union and the Local Union.....	136
8. Disaffiliation of the Local Union From the Mother Union.....	136

**CHAPTER VIII—APPROPRIATE BARGAINING UNIT  
AND CERTIFICATION ELECTION**

1. Appropriate Bargaining Unit .....	138
2. Certification Election .....	140
3. Whether or Not a Petition to Cancel/Revoke Registration is a Prejudicial Question to the Petition for Certification Election? .....	149
4. Who Can Vote in the Certification Election? .....	149
5. On Retractions, Recantations or Withdrawals .....	153
6. Procedure for Certification Elections .....	154
7. Requirement to Have a Valid Elections .....	156
8. Requirement to Certification of the Union .....	157
9. Run-Off Election; Elements and Nuances .....	157
10. Jurisdiction to Determine Employer-Employee Relationship in Certification Election Cases .....	159
11. Protests and Other Questions Arising From the Conduct of the Election .....	159
12. May the Legitimacy of a Labor Union, Which has been Duly Issued a Certificate of Registration But Which is Alleged to be Composed of a Mixture of Rank-and-File and Supervisory Employees, be Questioned in the Certification Election Proceedings.....	160
13. Direct Certification is no Longer Allowed .....	160

**CHAPTER IX—COLLECTIVE BARGAINING  
NEGOTIATIONS AND AGREEMENT**

**A. COLLECTIVE BARGAINING AND NEGOTIATIONS**

1. Collective Bargaining, Defined .....	163
2. Nature of Collective Bargaining .....	163
3. Duty to Bargain Collectively.....	164
4. Mandatory Aspects of Bargaining .....	166
5. Bargaining Representative .....	167
6. Scope of Bargaining Agent’s Representation.....	168
7. Grievance Machinery .....	168
8. ULP in Collective Bargaining.....	169
9. Refusal to Bargain.....	169
10. Violations of CBA No Longer ULP .....	171
11. Individual Bargaining, Explained .....	171
12. Deadlock in Collective Bargaining .....	172
13. Collective Bargaining Agreement (CBA), Defined .....	172
14. Collective Bargaining Agreement as a Contract .....	173

15. Union Security Clause .....	174
16. Check-Offs of Union Dues, special Assessments and Agency Fees.....	181
17. Certification of the CBA Operates as a Bar to the Filing of a Petition for Certification Election During Its Lifetime, Except Only During the Freedom Period ...	184
18. Duration of the CBA.....	184
19. Expiration of the CBA.....	187

**CHAPTER X—UNFAIR LABOR  
PRACTICE**

1. Concept of Unfair Labor Practice .....	188
2. Unfair Labor Practices of Employers .....	189
3. Cases of ULP of Employers.....	192
4. Test to Determine Whether or Not Employer is Guilty of ULP.....	194
5. Unfair Labor Practices of Labor Organizations .....	194
6. Cases of ULP of Labor Organizations .....	195

**CHAPTER XI—STRIKES, LOCKOUTS  
AND PICKETING**

1. Constitutional and Statutory Basis .....	198
2. Definition of Terms.....	199
3. Who May Declare a Strike or Lockout? .....	202
4. Requisites for a Valid Strike; A Synthesis.....	203
5. First Requirement: Lawful Purpose.....	203
6. Second Requirement: Lawful Means in Conducting the Strike .....	207
7. Third Requirement: Compliance with Procedural Requirements of the Labor Code .....	213
8. Assumption of Jurisdiction by the Secretary of Labor or Certification of the Labor Dispute to the National Labor Relations Commission for Compulsory Arbitration .....	220
9. Nature of the Mass Action Directed Against DOLE After the Assumption of Jurisdiction by the Secretary of Labor .....	229
10. “No Strike, No Lock-out” Clause in the CBA.....	232
11. “Runaway Shop, Defined.....	232
12. Labor Injunction; “Innocent Bystander Rule” .....	233
13. Question of Compensation of Striking Workers .....	233
14. Waiver of Illegality of Strike.....	235

15. Lockout.....	235
16. Picketing.....	236

**CHAPTER XII—TERMINATION  
OF EMPLOYMENT**

1. Basic Principles in Termination Cases .....	239
2. Requirements For Legality .....	241
3. Just Causes for Termination .....	241
4. Authorized Causes .....	275
5. Procedural Due Process .....	292
6. Illegality in the Manner of Dismissal.....	297
7. Reliefs for Illegal Dismissal.....	303
8. Right to Recover Damages for Dismissals .....	308
9. Constructive Dismissal .....	308
10. Preventive Suspension.....	309
11. Temporary Lay-Off.....	309
12. Termination of Employment by the Employee .....	310
13. Retirement.....	313

**CHAPTER XIII—JURISDICTION, REMEDIES,  
AND PROCEEDINGS**

**A. JURISDICTION**

1. Jurisdiction, How Determined.....	317
2. Labor Arbiter.....	319
3. National Labor Relations Commission (NLRC) .....	327
4. Court of Appeals .....	337
5. Supreme Court .....	346
6. Regional Director.....	348
7. Secretary of Labor .....	351
8. Bureau of Labor Relations (BLR) .....	353
9. Grievance Machinery .....	357
10. Arbitration .....	358
11. National Conciliation and Mediation Board.....	363

**B. REMEDIES AND PROCEEDINGS**

12. Execution of Judgments.....	365
13. Liability of Corporate Officials .....	367
14. Transferee of an Enterprise is not Liable as a General Rule.....	368
15. Compromise Settlement.....	369

16. Worker's Preference in Case of Bankruptcy .....	372
17. Prescription.....	374
18. Labor Injunctions .....	378

**CHAPTER XIV—LABOR STANDARDS**

1. Labor Standards, Defined.....	383
2. Wages.....	383
3. Hours of Work.....	393
4. Rest Day.....	406
5. Holiday Pay .....	406
6. 13th Month Pay.....	410
7. Piece Rate Workers .....	411
8. Incentive Leave Pay .....	412
9. Service Charges.....	416
10. Nature of a Bonus.....	416
11. Employment of Apprentices.....	417
12. Employment of Women .....	417
13. Employment of Minors.....	419
14. Employment of Househelpers.....	419
15. Homeworker, Defined.....	421
16. Employment Permit Required of Non-Residential Aliens Only .....	421

**CHAPTER XV—RECRUITMENT, PLACEMENT AND  
COMPENSABILITY  
OF INJURY FOR OVERSEAS WORKERS**

1. "Recruitment and Placement," Defined.....	422
2. Liability and Compensability; Cases.....	423
3. Illegal Recruitment, Defined.....	431
4. In Illegal Recruitment Cases, the Number of Persons Victimized is Determinative .....	435
5. Absence of Receipt Evidencing Payment, Not Fatal to Prosecution's Case for Illegal Recruitment.....	435
6. Illegal Recruitments as Economic Sabotage.....	436
7. Conviction for Both Illegal Recruitment and Estafa.....	436
8. Solidary Liability of Local Employment Agency and Foreign Principal.....	436
9. Joint and Several Liability of Manning Agent for Unpaid Salaries of Workers.....	436

## CHAPTER XVI—SPECIAL LAWS

A.	Republic Act No. 7877 (The Anti-Sexual Harassment Act of 1995) .....	438
1.	Declaration of Policy .....	438
2.	Sexual Harassment; When Committed .....	438
3.	Elements .....	438
4.	Who May be Considered as Victims of Sexual Harassment.....	439
5.	Liability .....	439
B.	Republic Act No. 8972 (Solo Parent’s Welfare Act of 2000) .....	440
1.	Declaration of Policy .....	440
2.	Who is Considered as a “Solo Parent?” .....	440
3.	Who are Considered as “Children?” .....	441
4.	Employment-Related Benefits Available to All “Solo Parents” .....	441
C.	Republic Act No. 8187 (Paternity Leave Act of 1996) ....	442
D.	Republic Act No. 9710 (The Magna Carta of Women) ....	443
1.	Declaration of Policy .....	443
2.	Coverage.....	443
3.	Discrimination, Defined .....	444
4.	Benefits and Protection Granted .....	444
5.	Penalties.....	446
	<i>Magna Carta of Women Matrix</i> .....	447
E.	Republic Act No. 7277 (Magna Carta For Disabled Persons) .....	470
1.	Coverage.....	471
2.	Disabled Persons and Disability, Defined .....	471
3.	What are the Rights and Privileges of Disabled Persons in Respect of Employment.....	471
4.	What Constitutes Acts of Discrimination.....	472
5.	What are the Two Pronged Incentive to the Employers Under This Act? .....	474

## APPENDICES

Appendix A- Important Aspects of the SSS Law.....	475
Appendix B- Conciliation-Mediation Process Workflow .....	486
Appendix C- Table of Jurisdictions .....	487