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Spotlighting on high economic growth, employment of the poor, and poverty reduction: A three-pronged strategy

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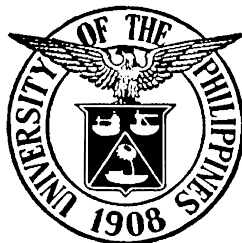
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**Spotlighting on High Economic Growth,
Employment of the Poor, and Poverty Reduction:
A Three-Pronged Strategy**

by

Gerardo P. Sicat*

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Spotlighting on High Economic Growth, Employment of the Poor, and Poverty Reduction: A Three-Pronged Strategy

By

*Gerardo P. Sicat**

Abstract

The strong popular mandate of the new president brings high hopes for bold economic reforms. A three-pronged strategy to deal with the Philippine under-performance in economic growth, generate more employment especially among the poor and to reduce poverty is suggested. The strategy consists of: (1) raising the volume of targeted subsidies to assist very poor families; (2) amending the restrictive economic provisions from the constitution so that they are moved to the body of the country's ordinary laws; and (3) establishing special labor employment zones as industrial estates in low income sub-regions where the enterprise locators can hire labor at market-determined rates. **The three-pronged strategy is linked tightly.** The government must commit to make a substantial increase of funding of (1), as soon as it has established, but not before, that reforms (2) and (3) will have been achieved. Only a president with a strong mandate and who enjoys great popularity can push through the political storm that reforms (2) and (3) are likely to invite. The constitutional amendment will transform the psychology of the economic reform processes within the country. It will remove the jurisdiction of the courts on economic policy legislation and on business issues on grounds of constitutionality. For another, it will focus the democratic process to the passage of the proper legislation suited to the country's needs in relation to foreign investment. The two reforms will stimulate the entry of foreign direct investments, facilitate interest again of highly labor using industries that have left the country for foreign locations to come back, enable domestic firms to adjust their labor costs more effectively, and stimulate the employment of the large numbers of unemployed and underemployed into organized and modern sectors of the economy. They will raise the country's growth rate closer to those of high growth East Asian economies and contribute to the eradication of high unemployment in the economy while reducing poverty.

Subjects: Philippine economy, labor markets, constitutional provisions, law & economics, political economy, poverty reduction, employment.

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Introduction

The coming in of Benigno "Noy" Aquino III as president with a very impressive mandate from the country's electorate gives the Filipino nation high hopes. At this point he possesses enormous goodwill. This outpouring of support from the people is an immense political capital. He could put that to effective use by pursuing bold economic reforms at the outset before he gets bogged down by intractable problems that are likely to weaken that popularity. The window of time to make major decisions that produce quick and lasting results is short for any president. Success in the use of that window means a major break from the past that could be significant for the country's development.

It is expected that the new president will use his political capital to achieve his electoral promises: programs to end corruption, to improve public education and public health services, to protect human rights and to secure lasting peace. The attention to economic governance is also expected: to take care of the macroeconomic fundamentals, to realign budget priorities, to raise public investment in infrastructure, to induce greater food production, and to continue the economic program. Business as usual along these fronts will produce good but not sufficiently dramatic results.

The economy's path, along these policies, could mean a rising growth rate. But they will produce at most an increase in growth that could put the economy on the 5 to 5.5 percent growth path, barring any untoward and unexpected developments. This is above the historic growth performance of recent years but it is not enough to bring the country to the level of rapid growth that our neighbors have been achieving.

Bold reforms call for tough actions. In turn, they yield big and lasting fruit. The business and political community must beware that improvements in governance and do-good measures are not enough. Get to the heart of the problem and we will discover deficiencies in economic policies.

Aside from the campaign on improving governance, including anti-corruption measures, the country needs to demonstrate that major changes in the investment framework are happening – to make policies friendly to business,

to show genuine reforms that change the rules of the game so that everyone is more productive, to put the Supreme Court and the court system away from interferences in major business decisions, and to align the economy so that there is more capital in the country to employ labor. This will accelerate the employment of the poor who are mostly the unemployed and the underemployed who are left out of organized production activity because of existing labor policies.

All these require bold policy initiatives that only a popular president can sponsor in the midst of political objections that will come his way. His job is not easy. As he put it in his inaugural, his calvary has just begun. It is important that he puts to good use that calvary: to improve economic policies that lead to rising economic growth, expanding employment for many, and reducing poverty among the very poor. With political mobilization of the support base that he will get from the body politic if he cultivates it correctly and in the direction of wise policy changes, a popular president can make that major difference to the nation.

The bold measures below will make it possible for the country to raise its growth rate by an additional level of at least 2 percent per year. Adding this gain in potential performance, the country will be able to achieve a growth rate closer to that of high growth economies in East Asia, which for decades have been growing by at least 7 percent to 10 percent per year.

It is a long way off to get to that higher range without reforms that directly stimulate private investment growth in a private enterprise economy like that of the country. To achieve the gains of this magnitude, the country must put in place reforms that are beyond *cosmetic*. That means that small and marginal changes might help, but they are not enough.

A Three-Pronged Strategy

Three strategic policies are combined to form a reform package that will stimulate the growth of investment, focus on job creation among the poor and reduce poverty. Each policy measure seems different from the other. Together the three measures will produce strength through synergy – one prong re-enforcing the economic outcomes of the others.

Specifically, the strategy has three specific components below:

1. **To increase the volume of targeted public expenditure subsidies to assist poor families, involving for the most part conditional cash transfers and other programs associated with the social fund for poverty alleviation.** The government's budgetary priorities will give weight to education, public health delivery and public assistance to the poor. But targeted programs

- to assist the truly poor will have to be increased with the help of **conditional cash transfers** and other forms of targeted social fund assistance.
2. **To amend the constitution so that the restrictive economic provisions contained in Article XII are moved entirely to the body of laws passed as ordinary legislation.** By this process, the restrictive economic provisions still remain as laws but now fall under the reach of ordinary legislative processes. The restrictive economic policies that have blocked reforms in foreign investment legislation can now be revised according the usual legislative processes in line with the practice in other countries without the threat of challenges due to constitutionality.
 3. **To create special labor employment zones designed to attract large labor-using enterprises in manufacturing and agricultural processing that are exempt from the application of the minimum wage orders of the government and on hiring and regularization of workers.** This will make the labor market more in tune with economic forces in very poor communities where the cost of living is lower and where the main problem is unemployment and underemployment. The zones are industrial estates that are to be built mainly by the private sector to promote investments in heavily labor-using industries. They are similar to the successful export processing zone experiments established earlier to promote manufacturing for exports. The special zones will be allowed to operate so that establishments locating in them can obtain incentives under either the BOI or PEZA as their operations might justify.

A tight reform package

The three major reforms suggested are to be treated as parts of a chained link of components. In short, they form a package. Together, they will produce great benefits for the country in terms of helping the poor and at the same time raising investment rates, especially in industry and in agriculture. Taken separately, they will not produce as much positive results as when they are working together.

There is an inherent danger that because it is the easiest of the three components of the package to do, the program of expanding public expenditure to help the poor ahead would be picked up ahead of the more difficult economic reforms. The proper sequencing of the reform actions is that the government must put in place the two difficult reforms first so that it could be assured of doing the first program and make it affordable. In short, the difficult reforms must be passed put in

place so that the government can proceed with confidence with supporting larger levels of subsidies to help the poor in targeted manner.

This means preparing a much larger program – good for a multi-year period – using the national budget to allocate more money for conditional cash transfers and social funds directed for specific uses to help the poor. With the reforms adopted, it is possible to build larger social programs designed to assist the country's poor with the help of multilateral and bilateral institutions furnishing supporting loans and technical assistance that will enhance the programs to help reduce poverty.

Without the force of strong economic reforms leading the economy in raising the growth rate and in expanding employment, continued subsidies become mere dole-outs that cannot be sustained by the government budget.

Having the program of reform with the constitutional amendment alone will produce good outcomes in improving economic the legislation for the future as they pertain to foreign investment promotion. But the incentives within the economy will continue to have the strong bias against labor employment. The labor laws tend to protect welfare of the employed but such protection act as barriers to the employment of those who are unemployed and underemployed and who therefore find themselves mainly operating in the unorganized (or informal) sector of the economy.

The second and third reforms are politically difficult but achievable if done by a popular president with a strong electoral mandate. A leader that wants to put in place good policies will of necessity have to navigate stormy waters to reach the objectives. The reforms suggested here still remain as important obstacles toward overcoming decades old problems – lack of foreign capital to help it through and a very biased resource policy pertaining to labor which has tended to work against the employment of the poor.

The other feature of the Philippine development problem – the highly protectionist framework of the industrial and trade regime – has, over the last few decades, given way to a Philippine economy that growing more open and part of the international division of production. This is the result of past reform efforts in industry and trade. Tariff rates were brought down, export activities have surged in the economy, especially in the export processing zones, and, by participating in international agreements – first with ASEAN and then entry within the WTO – Philippine firms have been more exposed to competitive pressures. The two difficult reforms will help to make the Philippine economy more internationally competitive.

Thus, giving up one or the other of these two reforms will weaken the whole package. It will not create the major effect on the fuller employment of the large labor force. This last feature of the program is key toward reducing poverty directly when the unemployed and the underemployed find more permanent work in the organized sector of the economy.

FURTHER DISCUSSION

A. Pro-poor subsidy programs to reduce poverty.

The most important subsidy program for the poor is the availability of education, health care services, investments in food production, and the availability of family planning advice to them. These sectors of government spending need to be given sufficient resources so that they address their mandated responsibilities, especially those that are directed to the country's poor citizens.

Yet some subsidies intended to help the poor could easily degenerate into subsidies that become generalized to help even those not intended to be helped when they are not well targeted. There are other programs that affect the poor which could be significant objects of expanded government support: urban renewal and resettlement programs, environmental projects such as the cleaning of the Pasig River which affects thousands of poor people. Of course, the usual development projects such as infrastructure investments help everyone including the poor. The issue here is about those programs directly intended to focus on poor members of the community.

Conditional cash transfers

Lately, much attention has been given to the program of **conditional cash transfers**. One version of this program provides cash support to families with children on condition that their children are in elementary school. There could be many variants of conditional cash transfers to help targeted poor.

Conditional cash transfers made to very poor families were introduced in the previous government. It seems that this program will grow in scale. In recent TV interviews, Secretary of Social Welfare Dinky Soliman was heard to talk of enlarging the program from borrowed money from multilateral development institutions. Governor Salceda of Albay, one of the articulate economic supporters of President Aquino, has spoken about the importance of this program of conditional cash transfers and of subsidies for the poor at this stage of the country's development problems.

These direct poverty reduction aids to the poor require larger allocations of the government budget. Public spending programs such as these could be effectively targeted only to deserving families. Even then, there are large numbers of poor families and such programs could easily bring up the big issues as to the definition of the cut-off points for eligibility. The fact is that there would be large demands for increases of public money for such programs.

Moreover, there are many poor people who are poor simply because they have no jobs, have lost their jobs, or have been reduced to sporadic jobs. Not to have a steady year-in, year-out job is one of the greatest of insecurities that the jobless are forced to endure in a life of poverty. In the case of these poor people, it is the provision of jobs in the organized sector which helps to reduce poverty most effectively.

Subsidies without strong economic reforms imply fiscal dangers

There is the danger that subsidies build a bottomless pit for fiscal deficits. Politicians love to see spending programs that they had promised during election time to get fulfilled. On the other hand, bureaucrats love large programs to implement for that is a mark of their importance in the government system.

Subsidy programs when persistent can help in the large transfer of income and capability to the poor. But when they become unsustainable, they could inflict as much pain when they are suddenly stopped. To make them truly effective, they should be linked to action programs that enhance growth objectives that guarantee that the assistance is sustained. Success therefore depends on putting in place the required economic reforms that strengthen the economy.

Economic growth strengthens the budget for pro-poor subsidies

Growth is what improves the availability of budgetary resources. Economic growth enlarges the resources on which further programs are based. It is therefore reasonable to anchor an expansion of direct poverty reduction programs if reforms to raise and sustain the economy's growth rate are in place. This link – or conditionality – is the key toward getting political support for the two difficult proposals that follow.

A massive program of assistance along this line of anti-poverty programs can be put in place as a major incentive for political support for the president's action. As he is able to secure the two reform measures on constitutional change and labor employment zones, it can be expected that the response from the economic actors – foreign as well as domestic investors in the private sector – will produce a higher level of growth and produce greater employment. Then, the scale of conditional

cash transfer programs and other such social fund programs to help the poor can be increased since they become fiscally more affordable. Part of the fiscal budget could be helped from long term development loans that could now be negotiated from the international development community to help in the country's direct poverty reduction assistance to the poor.

Many such programs can be devised – further improvements of educational facilities, urban and squatter resettlements in relation to environmental programs – could be increased as a result of these deep economic reform programs.

The deep economic reforms address the improvement of the investment climate. They create improved conditions for new and substantial private investments to flow into the country. Such changes will certainly include foreign direct investments. Private foreign investments could have a boundless quantity if the reform process in the government is strengthened as these major reforms are taking root.

Proper sequencing of pro-poor subsidies with the growth and employment reforms

It therefore stands to reason that the government can deliver on the promise of substantially raising programs of public assistance directly to the poor once the government has put in place the reforms calling for constitutional reforms and for the setting up of the special labor employment zones. It cannot successfully achieve the task by spending them first for they would help weaken the fiscal health of the government.

The sequencing of the three prongs of the strategy is vital to getting the correct outcomes. The government expenditure designed to raise the budget for the poor can become successful only if the president has succeeded in getting the politically difficult reforms through within the political process. These two other reforms will cost *little* government money but they will bring in great rewards for all. The flow of new foreign capital that uses more labor in their industries in the economy will be stimulated. Domestic capital which is hurt more by very high labor standards will be reinvigorated.

Labor-intensive industries will become an additional feature of private sector growth. In the past, the policy of mandated wage increases across the nation through the regional wage board decisions had helped to drive out practically many labor-using industries that were already established in the country to migrate to the neighboring countries. The special labor employment zones will provide the government an additional weapon to re-attract many of these industries that have migrated – shoe-making, textile and garments, etc. (see discussion below.)

Despite this optimistic assessment of the outcome, it is still important to recognize that the current international climate is not fully conducive to growth and progress. Recent international financial crises and economic recessions in the US, Europe and other areas have cast a large shadow of uncertainty and risk in the development horizon. The situation in Asia is somewhat more hopeful.

Yet, these blinks arising from economic uncertainty must not make the country wait before launching big reforms. The time to strike is when conditions are uncertain. For that is when there is reason to focus on what to do next. The country has to be prepared for the improvement of the world economy. New reforms then must already be in place when that happens.

If the new president seizes the moment and takes undertakes the proposed strategy during the first year or two of his presidency, the country will reap large benefits from the reforms when more auspicious circumstances permit it. In short, the country should be ahead of the curve to avail of the immense opportunities of the future.

B. Constitutional amendment: Transfer existing constitutional economic restrictions on foreign direct investments to mainstream (ordinary) legislation

A constitutional amendment is always a political time bomb for any government. But President Aquino has enormous political capital that he could put into play to gain dramatic results. He could seize the initiative by taking the political offensive on this issue. This means that he takes charge of the ship of state through stormy waters to reach a better horizon. The reward for successful management would be large economic gains in the inflow of foreign direct capital and a major break from the past of poor economic performance.

Reforming the economic restrictions vs. comprehensive constitutional and political issues

The president should consider postponing all other discussions of constitutional change except one – the economic restrictions in the constitution. These are the provisions that have paved the way for our poor economic performance over the decades of political independence. These restrictions have been in place in the constitution since 1935 when they were placed there.

All other demands for constitutional change are likely to be very contentious issues that will divide the nation. They also imply a high learning cost in budgetary terms before good results could be achieved. Their budgetary implications on

reorganizing the government are large and could detract from more productive use of government money at the moment.

On the other hand, the economic restrictions if lifted from the constitutional framework will have a quicker impact on the country's overall growth rate without as much requiring new budgetary outlays. Why? At the very least, such lifting will help to jumpstart the economy to stimulate private actors. Such reforms will impart a huge boost to the improvement of the psychology of economic reforms with regard to foreign investments.

The economic restrictions of the constitution have kept us from becoming a major foreign investment destination among the countries in East Asia. All our neighbors have undergone their phases of rapid economic development propelled by foreign direct investments. In our country, we have bickered as a nation for decades to the point of forestalling these flows of foreign capital and forcing us to make inferior policy alternatives.

Moderating the political time bomb

This issue is a political time bomb. It awakens emotions, nationalistic feelings, vested interests, and ideologues of all color. But a popularly elected president such as President Aquino has obtained can carry out the ship through the stormy waters.

The point in time when he enjoys enormous popularity and goodwill from the people is when to make the move. It is the proper timing to seize the moment. As he said in his inaugural, our aim is to multiply jobs at home so that Filipinos would not need to go abroad to look for work. *Layunin nating paramihin ang trabaho dito sa ating bansa upang hindi kailanganin ang mangibang-bansa para makahanap na trabaho.*

All that the president will propose is to transfer the restrictions as they exist today from the realm of the constitution to that of the national political discourse – through normal legislation. He will craft – with the assistance of his legal and economic experts – a one paragraph proposition to transfer all the existing economic provisions contained in Article XII on the national economy and patrimony and declare them still as existing policy but within the country's body of ordinary laws. In short, he will ask the people to approve that all these will be transferred within the realm of the nation's true democratic space – the mainstream legislative assembly where they could be debated and corrected later.

The president will not abolish or even liberalize the existing provisions at this point. He will only promise to subject them to democratic debate in the body politic. The president can assure the awakened political opposition that they will be able to

express their views when the time came to debate the issues within the democratic space available when new legislation is sought. But in reviewing them, every stakeholder on this issue will have the chance to air their views on the future consequences of reform.

Although no change in policy will be made (as the president will leave this to the future), **the psychology of economic reforms in economic matters will be revolutionized. It puts the economic restrictions that presently exist within the realm of normal legislation – majority politics. It will change the psychology of dealing with all investors – both foreign and domestic.**

Thus, the policies as they are currently provided in the constitution will be retained in this proposed amendment. But the whole nation will be on notice to debate them more fully in the future as ordinary issues for legislation.

This proposal – although already politically a difficult topic because it is constitutional in nature – is not in the same order of changes that other proponents of constitutional reform want to sponsor! *It is the mildest of the constitutional reforms being discussed among major advocacies. Yet it has potentially the highest reward in terms of raising the country's economic growth without imposing new costs on the government or demanding any new budgetary outlays to put them in place as policies.* The only cost in terms of new expenditure is related to the mobilization costs of getting the amendment push through within the body politic.

Being less politically toxic however does not make the measure any less difficult. Also, even if the other constitutional demands have their own merit, the president can say those proposals can wait until he had succeeded to fix the economic policy issues which are critical for the nation's progress.

In this way, those who still are opposed to them will have their day to hold their fort within the mainstream body politic and argue their case. In most countries, that is how major legislation on the economy is settled.

Philippine economic restrictions against the backdrop of international data

The constitutional restrictions of the constitution have had enormous impact on our way of life and on our unimpressive economic development performance as a nation. Their legacy is that they have helped to hamper our achievements in the economic field as a nation.

They have contributed complicated administrative and governmental processes in getting any business established. Many of these processes were

designed to monitor the prohibitions in the law provided in the constitution. They have immensely added to the costs of doing business in the country.

But nowhere do we get a full sense of how it hurts us than by examining international perceptions of the country's investment and business operational framework. International statistical and opinion surveys dealing with countries abound. Some are on corruption indexes, others are on political issues. Still others are focused on business environments. In all indexes, the country performs poorly. One reason is that all these aspects are interrelated.

The World Bank has undertaken annual reports to assess how countries let business decisions happen. Such cross country information provides benchmarks for understanding how the country stands in terms of the perceptions of private investors. The *Doing Business Surveys*, which are now well-established annual reports on business practices and regulations across countries, have placed the Philippines relatively poorly in these surveys.

In this author's *Philippine Law Journal* article (see especially, pp. 41-49), which is listed among the materials in "Further reading" at the end of this paper, the findings of the World Bank surveys on doing business are analyzed for an earlier year. The country's relative position has not improved even as later surveys have been reported. In the 2010 survey, the Philippines rated, or average, at the low end of the list of countries, ranked as the low end of the countries judged among the best – in short, the most cumbersome, at 140 of 180 countries included in the ranking. It has not changed much from the early surveys.

A telling – and more precise indicator of actual restrictions on foreign investments – is a new set of data that the World Bank recently compiled. This report of data cites direct information on restrictions affecting foreign investments across different sectors of the economy. This is comprehensively contained in a data set from a survey of 87 countries that participated, grouped together under a new data set called *Investing Across Borders 2010*. (See the Appendix for two Philippine news items dealing with the World Bank reported.)

To get the full gist of the data referring to the Philippines, Table 1 is compiled from the World Bank's master table that reported information for the 87 countries in the study. The highest score pertains to the information on the percent participation of foreign capital allowed in the specific sector. (100 means foreign investments are allowed up to 100 percent. 40 means foreign investments are allowed only up to 40 percent equity ownership.)

The table is presented in two parts. *Part A* compares the Philippine data for the average data for all Asia & Pacific countries (including Japan, South Korea, Australia, New Zealand, China, and the American Pacific nations) and each of the individual ASEAN countries that dominate that grouping.

Part B of the table compares the data with all the individual countries in the survey which are in essence the favorite destination of Philippine labor migration to these countries. They are mainly industrial countries which employ heavily and which are the most attractive for OFWs to go to work for.

Table 1
FOREIGN INVESTMENT RESTRICTIONS ACROSS BORDERS:
PHILIPPINES COMPARED WITH OTHER COUNTRIES

PART A. . PHILIPPINES COMPARED TO ASEAN COUNTRIES AND ASIA PACIFIC REGION AVERAGE

Region/ Economy	Mining, oil & gas ▼	Agriculture & forestry ▼	Light manu- facture ▼	Telecom ▼	Electricity ▼	Banking ▼
East Asia & Pacific	75.7	82.9	86.8	64.9	75.8	76.1
<u>Indonesia</u>	<u>97.5</u>	<u>72</u>	<u>68.8</u>	<u>57</u>	<u>95</u>	<u>99</u>
<u>Malaysia</u>	<u>70</u>	<u>85</u>	<u>100</u>	<u>39.5</u>	<u>30</u>	<u>49</u>
<u>Philippines</u>	<u>40</u>	<u>40</u>	<u>75</u>	<u>40</u>	<u>65.7</u>	<u>60</u>
<u>Singapore</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Thailand</u>	<u>49</u>	<u>49</u>	<u>87.3</u>	<u>49</u>	<u>49</u>	<u>49</u>
<u>Vietnam</u>	<u>50</u>	<u>100</u>	<u>75</u>	<u>50</u>	<u>71.4</u>	<u>65</u>
Continued →		Insurance ▼	Transport ▼	Media ▼	Construct ion, tourism & retail ▼	Health care & waste manage ment ▼
East Asia & Pacific		80.9	63.7	36.1	91.6	84.1
<u>Indonesia</u>		<u>80</u>	<u>49</u>	<u>5</u>	<u>85</u>	<u>82.5</u>
<u>Malaysia</u>		<u>49</u>	<u>100</u>	<u>65</u>	<u>90</u>	<u>65</u>
<u>Philippines</u>		<u>100</u>	<u>40</u>	<u>0</u>	<u>100</u>	<u>100</u>
<u>Singapore</u>		<u>100</u>	<u>47.4</u>	<u>27</u>	<u>100</u>	<u>100</u>
<u>Thailand</u>		<u>49</u>	<u>49</u>	<u>27.5</u>	<u>66</u>	<u>49</u>
<u>Vietnam</u>		<u>100</u>	<u>69.4</u>	<u>0</u>	<u>100</u>	<u>75.5</u>

Source: World Bank, *Investing Across Borders* 2010, Washington D.C.

PART B. PHILIPPINES COMPARED TO SOME OFW COUNTRIES OF DESTINATION FOR WORK & MIGRATION

Region/ Economy	Mining , oil & gas ▼	Agriculture & forestry ▼	Light manu- facture ▼	Telecom ▼	Electricity ▼	Banking ▼
High-income	100	100	93.8	89.9	88	97.1
<u>Canada</u>	<u>100</u>	<u>100</u>	<u>81.1</u>	<u>46.7</u>	<u>100</u>	<u>65</u>
<u>France</u>	<u>100</u>	<u>100</u>	<u>80</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Saudi Arabia</u>	<u>0</u>	<u>100</u>	<u>75</u>	<u>70</u>	<u>100</u>	<u>60</u>
<u>Spain</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>United Kingdom</u>	<u>100</u>	<u>100</u>	<u>65</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>United States</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>Philippines</u>	<u>40</u>	<u>40</u>	<u>75</u>	<u>40</u>	<u>65.7</u>	<u>60</u>
Continued→		Insurance ▼	Transport ▼	Media ▼	Construct ion, tourism & retail ▼	Health care & waste manage ment ▼
High-income		100	69.2	73.3	100	91.7
<u>Canada</u>		<u>100</u>	<u>79.6</u>	<u>73.4</u>	<u>100</u>	<u>50</u>
<u>France</u>		<u>100</u>	<u>59.6</u>	<u>20</u>	<u>100</u>	<u>100</u>
<u>Saudi Arabia</u>		<u>60</u>	<u>40</u>	<u>0</u>	<u>91.7</u>	<u>50</u>
<u>Spain</u>		<u>100</u>	<u>39.6</u>	<u>50</u>	<u>100</u>	<u>100</u>
<u>United Kingdom</u>		<u>100</u>	<u>79.6</u>	<u>100</u>	<u>100</u>	<u>100</u>
<u>United States</u>		<u>100</u>	<u>85</u>	<u>62.5</u>	<u>100</u>	<u>100</u>
<u>Philippines</u>		<u>100</u>	<u>40</u>	<u>0</u>	<u>100</u>	<u>100</u>

Source: World Bank, *Investing Across Borders* 2010, Washington D.C.

Only the Philippines is uniquely guided by constitutional policy on restrictions

The constitutional restrictions in the Philippines do not account for all the policies directly. But indirectly, they have all been inspired or made more difficult by the constitutional restrictions. The Philippines comes out worst – the most restrictive –

among the principal economies of ASEAN – even though these co-members of ASEAN have their own restrictions. The data cannot be used by the objecting observer who would be tempted to say, “*There, I told you so! They also have their restrictions on foreign investments!*” All the ASEAN countries do not have any constitutional restrictions similar to those that exist in the Philippine case. They are part of the evolution of their national economic policies. They simply undertook to do their policies as part of their own adjustments to their perceived needs while addressing foreign investment policies.

In fact, Thailand, Malaysia and later Indonesia undertook to adopt very liberal foreign investment policies that made them achieve great strides in manufacturing, far better than we could get the manufacturing sector to move. Why? They had no constitutional impediments that were built in. As a result, the migration of foreign investment capital from the developed world moved to these countries during the 1970s and the 1980s and continues to this day, leaving a trickle to the Philippines. (The restrictive economic policies of the past in the country also played a big role in this development.)

Going further, with respect to utilities, land and natural resources, these countries have managed these policies very well according to policies that they adopted using their parliaments to pass them. Thus, whatever policies that they adopted were passed under their normal law-making processes. Their political constitutions did not have almost immutable *dictas* that made it difficult to redefine the restrictions and the prohibitions concerning foreign capital.

All these matters were settled at the helm of the national government setting the foreign investment attraction policy. Even when laws to interpret these prohibitions and propose solutions were passed in the country, those laws were often subjected to constitutionality challenges. Hence, more delays and uncertainties have come. For instance, the famous cases of the Manila Hotel privatization (which would have brought in enormous tourism impact in the country) and the petrochemical investment of the Taiwanese were stoppew by Supreme Court actions on these cases.

Ask ourselves then the questions: Why are tourism receipts so much lower than our neighbors? Why is it that the country still does not have an integrated petrochemical industry in the country after so many years. Or simply, what is our country behind in major industrialization compared with our neighbors when in fact we led them ahead in the endeavor to industrialize?

Those who question the need for the constitutional amendment being proposed would only need to look at the text of the constitutions of these neighboring countries.

The Indonesian constitution is so economical in words that it gave much power on the evolution of policy making to the government. The Thailand constitution – quite often changed by that country's volatile political environment of military rules interspersed with democratic parliamentary government – never commented on economic policy issues. They left those issues to be elaborated by the government. The Malaysian constitution – which is federal and two stage (since there are also state constitutions) – does not contain provisions that directly governs policies affecting foreign investments.

The constitution of Vietnam (crafted only in 1992) is, like that of China, even more assuring to foreign investors than the Philippine constitution. In Articles 15 to 29 of the Vietnamese constitution describing the economic system, the constitution lays out the principle of the enterprise economy, foreign or domestic. There is no duality of treatment between domestic and foreign capital. There are no provisions on specific restrictions applied to foreign capital in the constitution. All economic decrees of the government, in short, follow the principle of national treatment of foreign capital, including guarantees against confiscation or expropriation without just compensation. Is it any wonder that with these guarantees and welcome to foreign capital that Vietnam would surpass Philippine foreign direct investment inflows today?

A propos of the Vietnamese constitution and the *miracle* that is China's economy, it is important to note that most of the formerly centrally planned communist countries of Europe also have welcoming provisions for foreign investment attraction. This is true among all the former Eastern Soviet bloc countries, including Russia. These countries contain guarantees to foreign investments that many countries do not have.

In short, the respective constitutions of ASEAN neighbors – and many other reforming countries – do not impose the kinds of restrictions found in the Philippine constitutional document.

In contrast, in our country, policy-makers have been hamstrung from the very beginning of political independence by the political document that put a limit on the role of foreign capital in land ownership, in the operation of public utilities, and in the exploitation of natural resources.

In spite of these factual information that can be checked by all, there will still be in our country who will want to derail the constitutional change on economic provisions. These provisions are the ones that have almost permanently insulated them from change and contributed to their high level of economic comfort. Some of these vested interests have real issues at stake in the short run. Actually, in the long run, when the scale of the economy will have risen well as a result of improved economic policies, these vested interests against change will find their opposition to reforms in these issues quite petty and even ill-motivated because they are truly selfish.

The reformers who want a comprehensive constitutional change argue on other grounds. The president must define the policy agenda as one that deals mainly with economic provisions that need to be transferred to the mainstream body politic. He could argue that all other issues – federalism, political change in presidential vs. parliamentary structure – would involve, if adopted, enormous learning time for the nation and also more expenditure of public money to put the changes (if done) them to work.¹

These could be dealt with in later times, if the nation would still want them. But it would be useful to work on first things first: immediate upliftment of economic conditions. They therefore should not stand in the way of a quick and imperative reform of the moment.

From constitutional to the mainstream political arena: economic restrictions on foreign investments

The president could make the debate on the existing restrictions by simply asserting that the constitutional provisions will continue to be the law of the land on foreign direct investments until later amended. In time, Congress would be given the authority to propose those changes dealing with the economic restrictions as part of ordinary law making after the amendment of these provisions are made. Such debates could commence within the realm of democratic politics. This is the same

¹ A shift to a parliamentary government will incur costs in restructuring the government. Government departments would have to be realigned, and inevitably some costs in restructuring them will be involved. A federal structure will cause re-alignments of local government structures with that of the national government. Any changes along either routes (parliamentary or federal) will take years of experimentation to realize positive changes that will fulfill the hopes of their proponents. The country has now lived with the presidential form of government for almost close to eight decades – including the Commonwealth period.

way that other countries make changes in their laws on foreign direct investment attraction.

To explain the constitutional amendment affecting the restrictive economic provisions, the president could simply say:

“I will only remove the restrictive provisions from the constitutional setting. We are the only country in this region burdened by restrictive prohibitions on foreign direct investments embedded in the country’s political constitution.

“All other countries legislate the restrictions inspired by nationalistic reasoning through their legislative bodies. Thus, I am only seeking an amendment of the constitutional provisions to the effect that we follow what other countries do.

“Further, I will request that all the current provisions as they exist now will continue to be retained as part of the law until the nation has fully debated them according the usual politics of changing laws. All I am asking is a shift in venue of the democratic debate.

“I want those provisions debated in the future so that Congress can act to make any changes that are consistent with our efforts to raise the level of employment and make headway in the fight against poverty and our objective as a nation to be in control of our national destiny.”

If the president succeeds in undertaking this change in the country’s constitutional processes, it would become a milestone in making the country more attractive to foreign direct investments. For this would change the psychology of foreign direct investment attraction in the country. The time to make major changes in the country’s investment policy is at the beginning of the new administration.

In this way, the government would be able to reap the benefits of the reform and demonstrate that sustainable change is possible. The new president therefore is able to define his economic agenda in the strongest and most direct possible way. A harvest of rewards awaits the government that acts soon enough. Within the six-year term of his presidency, tangible results should be seen halfway through that term.

These provisions of the constitution – limitations on the role of foreign capital in land ownership, on the proportion of foreign capital in the exploitation of natural resources and the ownership of public utilities – have been the albatross of Philippine development. They helped to define many other restrictive policies that our nation

has adopted over the years. In fact, the 1987 constitution expanded the coverage of these provisions further.

These provisions helped to restrict our accomplishments in economic development. They have made us a second rate country in bringing in foreign direct investments to our shores. From decade to decade, all the countries in East Asia – including our neighbors in ASEAN – from Singapore, Malaysia, Thailand, Indonesia and now Vietnam – exceed the yearly flows of investments to our country.

These provisions have slowed down our national development immensely. They misguided our leaders into adopting narrow development strategies. Over the years, the Supreme Court was hostage to these economic provisions when dealing with cases of constitutionality of economic policy and business decisions that were brought before it. It is time to get these provisions off from the constitution and on to the normal venue of political debate in the legislature where they should belong. We have to put our country in the modern age of enlightened, forward looking and less selfish nationalism.

Mechanics of amending the 1987 constitution

Amending the 1987 constitution is not an easy process. It is more difficult than amending the 1935 constitution. A credible president, riding on his popularity of putting into effect serious economic change, can make that constitutional change happen if it is simple enough and not thought to be as disruptive as other proposals on constitutional change.

An advantage that President Aquino has over any other president is that he inherits Cory Aquino's mantle, who was the one who brought the 1987 constitution into Philippine history. Of all the reforming presidents, he therefore has the best chance of turning the issue around to one of advantage in getting it done, for it is one that corrects a historical error.

He must himself be convinced that the economic provisions had done the country poorly and that it would be better to move these provisions to the mainstream democratic political debate. In short, he has to see through the historical errors committed by many Filipino heroes, including that of his mother on this issue.

The 1987 constitution offers three alternative processes that by themselves are designed to make any change of the constitution very difficult. But so long as the president keeps the agenda simple and focused, he could get it done.

First, he makes a simple proposal to Congress to limit the agenda to the economic provisions and to make as little change in the nature of the present provisions. He proposes to get the text of the proposal controlled by a simple text.

The president will propose that the existing provisions of the constitution on economic restrictions are lifted from the constitutional text and are bodily transferred as part of existing laws within the legislative context. Thus, any further change of these restrictions will be undertaken in a future time through the usual mainstream political discourse of the nation – through normal legislation.

This could simply mean crafting a one paragraph proposition that performs this task of amending the constitution. Obviously, he must take responsibility for the agenda. His legal experts and his economic advisers must make the text simple so that no further constitutional issues will be kept under these constitutional change. The new laws exist, but they no longer become an issue for constitutional challenge in the courts.

The president will not abolish any provision nor amend to liberalize any of them at this point. He will only promise to subject them to democratic debate in the body politic.

To adopt this amendment, the president has to collect the support of three-fourths vote of the membership of Congress. This is a high level of votes to gather. Could he do it? Despite the large task, it is not an impossible scenario considering that in the Philippines, there is a tradition of support to the president at the beginning of his term. With his popular mandate, his Cory halo, this rule is even more a greater likelihood.

The need to speed up the constitutional reform might even give this president the persuasive power to make Congress and the Senate to settle the issue of what constitutes the constituent assembly – the issue of whether it is both houses acting in a single constituent assembly or two separate houses acting together.

As a practical approach, the single house version of the constituent assembly of all congressmen and senators voting as one assembly is the superior and quicker way compared to the two-tiered constituent assembly of a House and a Senate. This issue became a critical political tactic used to derail the efforts of President Gloria Macapagal Arroyo when she put a trial balloon for a constituent assembly. She was however pushing for constitutional amendment of the comprehensive type at a time when she had become very politically weak. The scandals of her government had damaged her leadership.

In comparison, President Aquino would have enormous political clout if he proceeds this early to deal with the constitutional issue. He has not even peaked and his popularity would rise as he keeps pushing serious economic reforms. The Cory halo will be there to help him and he should use it as a mantra of great political value as he fights off the opposition.

The second option for constitutional amendment is to propose a constitutional convention. But why go to an expense so large for so simple a proposal which a convention would require? Even this procedure requires a vote of Congress that is substantial, although by less. Support of Congress by two-thirds vote would need to approve a call for a convention. Obviously, with a simple constitutional agenda required, a convention would not be the right way to go.

The third procedure would be more appropriate if the constituent assembly does not work. The alternative procedure is just more difficult to undertake. The outline of the process is provided in section 2 of the article on amending the constitution.

It goes this way. A sign-in petition by at least 12 percent of the total electorate is needed with at least 3 percent of the voters in each electoral district voting for the petition across the country. The mobilization of the process is not impossible but requires strong effort to get it done at the local level when the referendum is made.

A popularly elected president riding on the zeal of a reformist agenda – which Congress makes difficult – because of a likely few holdouts – could be maneuvered by an effective campaign by the president's political leader. It could also be a referendum on his part to carry on bold reforms in the economy, by a direct appeal to the people.

After the Comelec has ruled on the validity of the popular petition, the amendment could be put to a plebiscite vote – perhaps in a special referendum or a vote that coincides with the local elections across the country.

Of the three methods, using Congress as the vehicle of the amendment is much more expedient. If the president presses the process with his political weapons to get congressional support, it could achieve the task quickly. The president has a lot of weapons to get support from the people. Some of the weapons he has are in the powers of the presidency. A lot of them are tied up with the budget – public works, special programs, anti-poverty spending to help the poor, and other weapons. The anti-poverty program plus other instruments of getting support from Congress would be needed. And then there is the Cory halo.

These proposals for the amendment of the economic restrictions in the constitution will create a greater flow of capital into the Philippine economy in unprecedented levels. Even if for the moment they retain the existing restrictions, their transfer to normal legislative scrutiny will make them easier to change under democratic political discourse.

The psychological impact is the most important at the moment of adoption of the constitutional amendment. That will help to undo many of the obstacles in the processes of doing business in the country. It will make the Philippines a good business destination for foreign direct investment. Of course, the real agenda later on, would be to amend these provisions according to what would be best for the nation.

More than that, with the help of the third prong being proposed – the special labor employment zones – the nation would be able to move toward more competitive industrial and agricultural industries. It will make domestic investors thrive in a very productive business and economic environment. This will unleash a large amount of latent capital that had in the past been prevented from helping the country achieve a high level of domestic growth and high productivity.

Direct benefits of transferring the economic restrictions to the body of ordinary laws

Shifting the debate on the restrictive economic provisions to the mainstream body politic changes the psychology of the economic reform process within the country. It makes it easier to correct a mistaken policy when that is established. Normal legislation is by majority vote. But constitutional change requires two-thirds majority vote.

The direct reward that this act will bring about is the improvement of the business climate. It will transform the country's business environment. For one, it will remove the threat of delays occasioned by Supreme Court challenges on constitutionality that holds many government acts hostage to long delays and uncertainty.

As a result, the court system can deal with its own backlog of court cases as they are unburdened of some of the constitutional issues related to economic issues. Thus, the courts get more time to de-clog the court dockets of legal challenges. The Supreme Court will also become less interventionist on economic matters.

On the investment front, the nation's policies toward the attraction of investments will improve. Foreign investments will have a better framework of

policies in which they can work when they set up enterprises in the country. The domestic investment community will also be encouraged to pursue projects that grow with foreign investments. A soundly growing economy provides enormous benefits to all.

C. Special Employment Labor Zones

This proposal, like that on the constitutional amendments, is another political time bomb. Yet a popular president can deflect many arguments that have been used to promote the welfare of labor.

Thinking out of the box on labor and employment issues

The president could say this to the opponents of this reform:

“Our efforts to raise many labor standards leave a lot of people without jobs. Our labor standards help mostly the employed. But some of these standards affect the unemployed in a disastrous way – by prolonging their condition. This is one source of poverty among our working classes.

“To help this segment of the labor force with employment, we must think beyond our current set of policies and introduce an additional program for them so that we make them catch up with the rest of our countrymen.

“We must have a separate program for these countrymen so that they can feed their families while we help those who are employed with the traditional policies.

“It is better for one person to have a day-to-day job that enables him to earn a living than to have none at all or to have one that is only occasional. It is far better for the family to have secure employment on a day to day basis for one or two or more members of the family than to have their talents wasted by unemployment.

“Labor unions must also think of our unemployed as people to be helped. I intend to do this with special labor zones such as the one we will establish.

“When China decided to emulate the capitalist market economy during the early 1980s, they opened special economic zones that opened their country to major flows of foreign capital. These zones also allowed these enterprises to

buy goods and raw materials abroad. These enterprises in turn attracted a lot of rural and town labor to work in these zones.

“Look how prosperous China is today! China encouraged an open economy to operate – both for capital and for labor and imposed minimum standards for labor employment that were realistic and market based. The wage standards were humane but the government did not impose wage standards that were way out of line with what labor needed to be gainfully employed.

“In the early economic development of all our neighbors – beginning with Japan, South Korea, Hongkong, Taiwan, and among our Southeast Asian, they promoted jobs first and worried less about high wages. Certainly, their governments worked hard in not interfering along the wage front but promoted new enterprises to the hilt.

“Nike, the shoe company, was attracted to locate in a rural place in Indonesia because of the large population of unemployed villagers and the large labor pool. Wages are low, but the whole town and neighborhood is busy.

“Today, Indonesia has thousands of women and men holding long term jobs in nine large Nike factories spread across that country. But their incomes, although still low (and for these reasons are criticized as low-paid by do-gooders in the industrial world), have risen over time. Worker productivity has risen and has made the workers earn more income. These workers are not covered by the welfare system of assistance of the state for the poor. With their incomes, the workers bring food to their family. They have day to day jobs. Their children go to school. Indonesia has become associated with the making of Nike, the quality athletic shoe that is popular world wide.

“Our country’s high unemployment can only be solved through bold solutions to generate jobs. The high rate of population growth and the high incidence of growing poverty in the country require that jobs be generated in the formal sector of the economy. Only a high level of domestic investment in industry and agriculture can do this job.

“Moreover, I want the DOLE to be true to its mission of becoming a government department promoting employment for Filipino workers at home.”

This is one reason why the constitutional amendment that is proposed has to be packaged with the creation of special labor zones. But both of these reforms are politically tough issues since they could agitate the opposition of many quarters. Achieving them both however will bring very high rewards for our country. They will bring about a complementary impact on the expansion of private investment and growth in the country. As these two are achieved, the larger scale of expenditure programs targeted to the poor can become affordable. The fulfillment of the president’s poverty reduction program will be easier to deliver.

Market-determined labor policies in the special labor zones

The large unemployment problem of the country requires the help of special labor employment zones. These zones will produce a supplementary magnet for employment creation that is not furnished by the mainstream labor welfare policies. In these zones, the locating industries (defined as manufacturing, agribusiness processing, and even plantation agriculture) are not subject to government wage orders and interventions in the hiring of labor market. Therefore, they can operate their enterprises and hire more labor than is possible under current wage policies.

Minimum wage standards are always controversial. Employed people define the living wage differently from people who survive on almost nothing. For the employed, it is often not enough. Public policy has tended to help the employed through the issuance of wage guidance in the country’s regional wage boards. Only recently, before the end of the last administration, minimum wages were suddenly raised. This was a surprise adjustment that tried to secured final endearment from the working class for an outgoing administration.

To the unemployed whose skills are only at the low end of the wage scale, even a wage below the minimum that is ordered would in most likelihood be acceptable if only to get a steady job that brought in income from day to day. Evidence of this is that the minimum wage level is not universally followed by many enterprises and therefore suffers from rampant violations. Moreover, it is quite easy among households to hire their house help at a small fraction of the monthly equivalent of the industrial minimum wage.

The amount of people in the work force who are outside the minimum wage setup is not known. The country’s full-time work unemployment ratio is probably far above the usual 10 percent of unemployed reported in government statistics. A very

large level of unemployed and underemployed in the country could translate into “full time equivalent” of at least 25 percent of the labor force.

Even with these depressing statistics, the problem of employment creation is a daunting problem for the government still. The in-migration to the cities from the provinces of population of working age and the growth of squatter communities in which the unemployed find themselves living is an indication of the great magnitude of the country’s unemployment problems.

The government must find a solution to this type of unemployment. The solution has to be found partly in creating employment in the regions where the poor come from, thereby also stimulating regional growth with the provision of job opportunities that attract them to stay at home or nearer home. One has to put the problem from the perspective of the unemployed who look for job opportunities near where they live.

An approach to this problem is to allow a two-tiered system of labor market policies. One set is the standard that the nation has already grown accustomed to. This is the set of policies that exist today, that the Department of Labor and Employment (DOLE) has been trying to implement all along. These are the labor market policies that are now enshrined in the labor code.

The second tier in the policy involves an escape from the rigidity of the wage policy so that a directed policy aimed at creating employment for the very poor can be provided. To some extent, this second tier policy already exists. It is embodied in the laws dealing with very small enterprises and cottage industries. But more needs to be done so that the country can attract large labor-intensive industries.

The concept of the special labor employment zone takes care of this problem, for it is designed to establish in relatively poor areas of the country the opportunity for large and medium scale industries mainly dependent on labor as major input. The zone is a small escape valve where the labor market is allowed to adjust to the realities of high unemployment in the labor market. The special labor employment zone is an area designated as such, which could access the incentives available to the Philippine Export Zone Authority (PEZA) or the Board of Investment (BOI). The enterprises locating in these zones will have the privilege of being exempt from the minimum wage orders of the regional wage boards and also have more simplified rules with respect to hiring and firing.

Other than that, they would be regulated by existing labor policies. Therefore, they are covered by laws and regulations pertaining to social security, housing, and workmen’s compensation. They are also covered by work hour and overtime

regulations. will be implemented. Child labor is not allowed. Hence, it is mainly the same labor laws except in the matter of wage setting and labor contracts. These would be more market-determined.

The labor employment zones are to be located in poor communities and provinces that have per capita income that is below the national average. The zone is the mechanism required to harness large heavily labor-using enterprises for harnessing into direct employment. The enterprises could be industrial factories or agricultural processing activities. Locators in the special labor zones will be targeted to large, labor-intensive industries, especially designed to produce for exports, but also including domestic market oriented enterprises. The target enterprises are labor intensive industries and those activities that generate industrial type processing work based on agricultural industries. The zones will bring into direct employment workers who otherwise migrate to the bigger cities of the country only to find difficulty getting a job in the high-wage sector.

If the country had these labor zones in place earlier, the migration of some companies already established in the country in the past would not have happened. Instead, in response to factors such as high wages here despite the great abundance of labor, these companies moved to other countries. The labor employment zones would have provided an attractive option for these companies that were adjusting their labor and other costs. Yet in recent years, many such companies have moved to China, Vietnam, Indonesia, Thailand, and even Malaysia.

Philippine minimum wages are quite high compared to many ASEAN member countries. Of course there are other reasons for this. Our production cost structures are also high. We know that two major factors contribute to this. Our energy costs are high. The peso exchange rate today is too strong as to cause hurt to export industries. These are two problems that need to be addressed separately.

In order that the special labor zones will be able to attract companies using labor in large quantities – labor intensive operations – to take a long term view of their investments in the country, it is essential that the labor zones be established without imposing a duration period for their exemption from government wage orders. Eventually, as the labor pool of unemployed and underemployed willing to be employed at any wage is exhausted, the companies located in these zones will invest in equipment to complement their employed labor.

That development will produce rising labor productivity so that their wages would be pushed up without even putting pressure on the companies. The most important development that will happen is that successful implementation of the labor employment zones will cause the exhaustion of the surplus supply of cheap

labor in the country. This is the lesson in development experience that many of our successful neighbors have learned.

A most important development that will arise from this policy of labor zones is that in due time, the country's domestic wage policy will converge toward greater flexibility. It will provide a major demonstration for the country that progress in income growth, employment and industrial development is facilitated by more flexible labor policies. This is what our progressive neighbors have shown to us. We have to learn it not by logical example of others but by internal introspection through national experience.

The lessons of economic history of our progressive neighbors indicate that it is a useful and promising route to take. It is better to give productive employment for people in need of jobs rather than make them suffer the fate of the unemployed people or underemployed. In our country's present predicament, a lot of people of working age are forced to go into informal sector activities. In general, especially among the less skilled, incomes in this sector are low. The escape from poverty becomes a gargantuan problem for them.

Thus, the president could simply enjoin the nation as follows:

"Let's experiment with bold actions. Let's try what we did not try before.

"The growth of neighboring countries that did not legislate high labor standards are now quite far ahead of us. Now their level of development is far higher than ours and their labor standards are now even more advanced than ours. As a result, the workers there have incomes that are far higher than what we enjoy in our country today.

"Remember, we will keep current labor standards in all parts of the country except for the one region where we plan to experiment with something different."

Criteria for choice of special labor employment zones

The special labor employment zone has to meet the following criteria or characteristics:

- It is a sub-region within a major administrative region of the country, preferably an island economy that already has a good investment in public infrastructure – roads, telecommunications, ports.

- The governance of the zone is vested in a Labor Employment Zone Authority (LEZA), which is a separate administrative body that approves and regulates the establishment of the zones and the incentives for locators. The LEZA could be placed under the direct control of the Philippine Export Zone Authority (PEZA), in view of its enormous experience in managing the export processing zones. This will reduce the potential for competition between two government bodies and it will enhance integration of the policies.
- Enterprises locating in the zone determine their labor contracts and the wages that they pay will be determined by market conditions in the locality where they are situated.
- Only enterprises in manufacturing, agricultural processing, and major forestry plantations are enterprises that can locate in the zone.
- No special labor zone can be set up for the benefit of a single company locator unless that establishment has a guaranteed direct labor force employment of 3,000 workers.
- All labor standards regarding contributions for social security, housing, workmen's compensation benefits and regulations concerning working hours, including overtime will continue. No child labor will be allowed. In short, all other labor protection laws apply except those that are waived by the government.
- Government incentives provided by the BOI and PEZA will be made available to the locators according to the special circumstances of the enterprise entering the country.
- All investors – domestic and foreign – will be welcome to set up enterprises.
- The industries encouraged in the zones can be manufacturing or agricultural, estates.

One possible version of the special labor employment zone concept is to try it only in a single zone, formed from a large and highly populated island, or parts of it.

What comes to mind are populous islands like Leyte, Samar, Mindoro, Negros, or Panay (or parts of them) as candidates for these special labor employment zone. Were it not for the peace and order problems in Mindanao, Sulu island, Basilan island, or even the large Zamboanga City area would be potential special labor zones.

Another potential candidate is one segment or province of the Bicol region. But in another version of the concept, it could be several special industrial labor zones spread across the country that would cater to manufacturing and or agricultural processing. The zone could then be a smaller territorial jurisdiction but large enough for a big industrial estate to become a site for many investor locators that use labor in large amounts.

There are several adaptations of the special labor employment zones for agriculture and agricultural industries. For instance, this could be for reforestation projects. Another is plantation for commercial crops for exports and for exports. Huge applications of the concept of labor employment zones can be imagined for agricultural processing industries.

It is natural to expect that many sub-regions of the country would wish to consider becoming s special labor employment zone. The government through the zone authority could set up more specific conditions before any applicant region could be chosen as a zone. The evolution of the story is likely to be similar to the PEZA authority experience.

The special labor employment zones will change the character of employment generation in the Philippines. To some extent, the experience will replicate the experience of the country's export processing zones when they were first established. The new labor sub-regions could attract industries that have left us before – labor intensive manufacturing – shoes, garments, even textiles, metal works for household goods, furniture and other industries that require labor.

But to succeed quickly, a special marketing of the effort is required. The outcome will depend on how quick the construction of zones once the decisions are firmly made.

Concluding thoughts: special labor employment zones and the poor

The success of the labor zones will set in motion a process that makes labor in the country more scarce because it becomes gainfully employed. That creates a pressure on the wage rate to rise on its own. Every new establishment that brings in new and sizable employment of workers will expand employment in the community through its indirect multiplier effect. That alone works to speed up the obliteration of

the ranks of the country's unemployed. As workers improve their experience and skill, the firms also experience a gain in labor productivity that makes it easier to raise wages.

By introducing the special labor employment zones, the job market is strengthened with more demand for labor in the industry and agriculture that are attracted to these zones. Changes in wages must be market based so that businessmen and investors need not fear the hand of government intervention with unexpected orders pertaining to their operations. The flexibility of employment rules should be given to business enterprise so that it can make adjustments effectively to competitive pressures.

The special labor employment zones will also become helpful supplements for dispersing economic growth across the archipelago. They will become new areas of labor in-migration because jobs will become plentiful in them and organized economic growth can take place in these areas as they expand their operations.

What will happen to the overall policy of labor standards under the regional minimum wage structure? It will continue as the main basis of national policy. This is the larger economy that is governed by the high welfare policies that the country has decided to institute. The government will continue to implement the national policy to accentuate the need for the welfare of labor to improve with efforts to improve the minimum wage. The opponents of the zone concept will discover in time that as the zones succeed in providing greater employment, they will realize that the implementation of minimum wage orders will gain better compliance. This is a mystery – nay, a paradox – that will in time become revealed as true.

It is only in the domain of the special labor employment zones where the wage orders do not have any effect. But these zones will bring into the fold of the employed a large new set of workers who will contribute to the country's industrial revolution. They will help to make a difference in raising the country's overall economic performance. They will also become bastions of rising industrial productivity.

It could then continue to act according to the policies within the regional minimum wage system according to the major administrative regions, except in the special labor zones. Governments, through acts of compassion often deviate from market realism, so that they tend to create unintended distortions in these markets by their actions. The special labor zones provide the correction to this problem, by providing some room for more market determined labor and employment outcomes.

It is natural that political opposition against having such zones would come from labor unions and other groups who want the regime of labor market to be regulated tightly in order to protect the welfare of labor. They think they represent all labor, but they work mainly for those who are already employed.

The fact is that the unemployed, the underemployed and the very poor have only very few sponsors and protectors in the political system. The labor unions always want to raise labor standards in the belief that they are benefiting their memberships. Their basic interest is to raise the benefits that employed people already enjoy. Under full employment, that tactic helps many. When high unemployment exists, that tactic is likely to be helpful only to those already employed. When wages are raised by government order, unemployed and underemployed labor is left out of the benefits.

In reality therefore, the very poor have no voice. Their supposed natural champions fight for higher wages that they themselves do not enjoy since they are unemployed. The government must find a viable solution to their problem by introducing new jobs that are not created within the mainstream labor policies that are in place. The special labor employment zones provide an answer to their problem.

Further reading

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Appendix: Two recent news items on the World Bank data on Foreign Investment Restrictions

Roderick T. dela Cruz, "RP among most restrictive in foreign investments," Manila Standard Today, July 9, 2010

THE World Bank has listed the Philippines as among the world's most restrictive countries in allowing foreign capital into the economy.

"Among the 87 countries covered by the Investing Across Sectors indicators, the Philippines imposes foreign equity ownership restrictions on more sectors than most other countries," said a new World Bank report called Investing Across Borders 2010.

The Philippines was lumped along with Ethiopia and Thailand with an indicator score of 0 for several sectors.

By comparison, more than a quarter of the 87 countries surveyed had few or no sector-specific restrictions on foreign ownership of companies. Countries with no restrictions received a full index score of 100. The main indicators in the study included the process of starting a foreign business, access to industrial land, and commercial arbitration regimes.

The Philippines aside, the other economies that restrict foreign ownership in a third or more of the sectors were Bolivia, China, Ethiopia, Greece, India, Indonesia, Malaysia, Mexico, Morocco, Saudi Arabia, Sudan, Thailand, and Vietnam. The 200-page study covered various indicators of foreign direct investment regulation in 87 economies.

The Philippines, along with Bosnia and Herzegovina, are listed as the only nations that do not allow foreign companies to lease public land. The Philippines also received poor scores for imposing ownership limitations on many industries, in particular on the primary and service sectors.

The World Bank study notes that foreign capital participation in the country's mining and oil and gas industries is limited to a maximum share of 40 percent by the Philippine Constitution, although it acknowledges that foreign ownership in those sectors may be allowed up to 100 percent if the investor enters into a financial or technical assistance agreement with the government. In the service sectors, the Philippine Constitution limits foreign capital participation in public utilities such as telecommunications, electricity and transportation to a maximum of 40 percent.

Newspaper publishing and television broadcasting are closed to foreign equity ownership.

"It takes 17 procedures and 80 days to establish a foreign-owned limited liability company in Manila, slower than both the average for East Asia and the Pacific and the global average," the World Bank report says.

The study notes that two additional procedures are required exclusively of a foreign-owned company establishing a subsidiary in Manila: an authenticated and legalized copy of the documents of the parent company abroad and another set of registration documents with the Bureau of Customs.

"This registration usually takes 27 days," the report says.

It says the Philippine Constitution also prohibits foreign companies from buying land and the best option available is to lease private land. A foreign company's exercise of rights over the land such as subleasing, subdivision, or making improvements is limited by the terms of the lease contract.

In the Philippines a foreign company cannot mortgage leased land or use it as collateral to buy production equipment.

Another problematic area is arbitration, where it takes around 135 weeks to enforce an arbitration award rendered in the Philippines—from the filing of an application to a writ of execution attaching assets (assuming there is no appeal)—and 126 weeks for a foreign award.

"Enforcement of arbitration awards is slow in most of the region, taking more than a year in the Philippines and Thailand."

Countries in Eastern Europe and Central Asia and Latin America and the Caribbean are said to be the most open to foreign ownership of companies. Worldwide, restrictions on foreign ownership are strictest in media, transportation, electricity, and telecommunications industries.

The report says overly restrictive and obsolete laws are an impediment to foreign direct investment and their poor implementation creates additional costs to investment.

"Foreign direct investment is critical for countries' development, especially in times of economic crisis. It brings new and more committed capital, introduces new technologies and management styles, helps create jobs, and stimulates competition to bring down local prices and improve people's access to goods and services," said Janamitra Devan, vice president of Financial and Private Sector Development of the World Bank Group.

The report found that countries that do well on the Investing Across Borders indicators also tend to attract more foreign direct investment relative to the size of their economies and population.

On the other hand, countries that score poorly tend to have higher incidences of corruption, higher levels of political risk, and weaker governance structures.

The World Bank says the report is intended to help countries develop more competitive business environments by identifying good practices in investment policy design and implementation.

Ted P. Torres, "World Bank study cites RP's restrictive policy on foreign ownership," The Philippine Star, July 10, 2010 12:00 AM

MANILA, Philippines - A World Bank study has cited the Philippines for imposing one of the strictest regulations regarding foreign ownership of businesses in the country.

In a study titled Investing Across Borders: Indicators of Foreign Direct Investment (FDI) Regulation, the World Bank said the Philippines ranked second only to Ethiopia, which does not allow foreign equity ownership in any business.

Under the Philippine Constitution, only up to 40 percent equity in a domestic corporation is open to foreign ownership.

In contrast, Brazil, France and Ghana allow foreign ownership in all of their domestic firms up to a hundred percent.

The World Bank report specifically pointed out that foreign capital participation in the mining and oil and gas industries is limited to a maximum share of 40 percent.

“Foreign ownership in those sectors, however, may be allowed up to 100 percent if the investor enters into a financial or technical assistance agreement (FTAA) with the government. Such agreements are granted for a 25-year term and require a minimum investment of \$50 million,” the report said.

Media, including newspaper publishing and television broadcasting, and industries related to national security are, however, closed to foreign equity ownership.

Investing Across Borders is a new World Bank initiative comparing regulation of foreign direct investment around the world. It presents quantitative indicators on laws, regulations, and practices affecting how foreign companies invest across sectors, start businesses, access industrial land, and arbitrate commercial disputes.

In the Philippines, the World Bank said foreign companies are likewise prohibited from buying land, although leasing is allowed.

“FDI must get approval from the Board of Investment for long-term leases. Land may be leased for an initial term of 50 years, renewable for another 25 years. There are restrictions on the amount of land that may be leased. A foreign company’s exercise of rights over the land such as subleasing, subdivision, or making improvements is limited by the terms of the lease contract. Only absolute owners of the land may [mortgage](#) it. The transfer of the lease to other foreign entities is restricted. Registration of leases is not mandatory. It is recommended that the lease be registered with the local register of deeds to ensure that lease rights are enforceable against third parties. Most land-related information can be found in the land registry and cadastre,” the report said.

South Korea, Kazakhstan and China, meanwhile, allow up to 49-percent ownership for foreign firms while Saudi Arabia and South Africa opens up to 70-percent equity into their local firms.

In another study made by the World Bank, called Doing Business 2010, the Philippines was ranked 140th in a field of 183 countries in terms of the ease of doing business.

In contrast, neighbors Singapore and Hong Kong were ranked first and third, respectively.