Background

The Philippines’ membership in the World Trade Organization (WTO) and other trade and investment agreements, as well as unilateral liberalisation and deregulation initiatives paved the way for welcoming various foreign businesses and investments into the country. Trade and investment liberalisation and deregulation were complemented by the implementation of labour flexibilisation to make the Philippine business environment more attractive for profit-seeking foreign investors. The government amended its Labor Code through the Republic Act 6175 or the Herrera Law which was signed in 1989. The implementing rules of the Herrera Law facilitated labour contractualisation and other forms of flexible employment by allowing the exemption to the automatic regularisation of workers after six months of employment if a worker was hired “fixed for a specified period” or “for a specified season”. Because of this provision, companies give employees fixed six-month contracts that can be subject to indefinite renewal to avoid paying benefits that are due to regular workers. The RA 6175’s provisions on assumption of jurisdiction and certification for compulsory arbitration have been repeatedly abused especially during President Arroyo’s regime to break strikes and force employees to go back to work. Assumption of jurisdiction has been used in several labour disputes such as the millworkers’ and farmworkers’ strike in 2004 in Hacienda Luisita which resulted in a massacre. The implementation of the Labor Code based on the RA 6175 further comes in handy to quell labour disputes in favour of business owners as the Philippines continues to intensify its efforts to attract foreign businesses in the manufacturing and agricultural sectors.

Agribusiness, including Agribusiness Venture Agreements (AVAs), and foreign investments in these are being aggressively pursued by the government. The Philippine Development Plan 2017–2022 includes agribusiness development in its priorities wherein the agricultural sector will be transformed “from traditional farming to a globally-competitive agribusiness sector”. This plan aims to increase the productivity of high value crops and deepen the Philippine agriculture sector’s participation in the global value chains and regional production networks. Mindanao has been the target of agribusiness because of its vast lands. As of 2016, twenty six of the top 60 companies in

2 Agribusiness Venture Agreements or AVAs “allow the private sector to share in providing farmers and farmer organizations with support services and access to capital.” from Oxfam. (2018). Land but no freedom. Retrieved from https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620492/cs-land-but-no-freedom-philippine-bananas-210618-en.pdf;jsessionid=27E5EA9C0933543F246159759A57709?sequence=1
Mindanao were involved in agribusiness, which in turn is dominated by foreign firms such as Del Monte, Dole/Stanfilco⁴, Sumitomo Fruits, Unifrutti and Tadeco⁵. For the same year, the total number of hectares of AVAs for Cavendish bananas alone in the Davao region is 8,717⁶. AVAs are being criticised for “putting farmers at the mercy of unscrupulous lenders and forcing them into unequal and unfair agreements with companies and exporters”⁷. Moreover, workers for these AVAs often suffer from unfair and unsafe working conditions.

One of the foreign corporations that invested in AVAs and practices labour contractualisation is Sumifru, a Japanese multinational company engaged in sourcing, production, shipment and marketing of various fresh fruits. Sumifru has more than 12,000 hectares of plantations and packing plants all over Mindanao. One of its packing plants located in the AJMR Agro-Industrial Economic Zone in Davao City enjoys several tax incentives. It also has plantations and packing plants in Davao de Oro (formerly known as Compostela Valley) which since 2018 is being eyed by the country’s Department of Trade and Industry (DTI) as a location to build another special economic zone. In Davao de Oro where the Feminist Participatory Action Research (FPAR) was conducted, Sumifru has 2,200 hectares of banana plantations with 11 banana packing plants which can produce 19,000 boxes per day or seven million boxes per year. Sumifru’s workforce in Davao de Oro (as of 2019) is composed of 4,700 workers of which 3,000 are from its 300 contract growers. Service providers such as Mobasco, Northskill and Bapapawoco are contracted by Sumifru to provide workers in the packing plants, which numbered up to 1,700 in Davao de Oro in 2019.⁸

Because of low wages, lack of benefits, exposure to hazardous working conditions and Sumifru’s refusal to recognise the workers as its employees, Nagkahiusang Mamumuo sa Suyapa Farm (United Workers of Suyapa Farm) (NAMASUFA)-National Federation of Labor Unions (NAFLU)-Kilusang Mayo Uno (May One Movement) (KMU) launched a strike on 10 October 2018. The fight for regularisation of the Sumifru workers was brought to the capital city of Manila after union workers were dismissed from their jobs and the violent dispersal of their strike camp on 10 October 2018. In 2019, a Writ of Execution on Return-to-Work Order was issued by the National Labour Relations Commission (NLRC) in favour of the striking workers. To date, Sumifru still refuses to implement the order.

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⁴ Mindanao has hosted foreign agribusinesses since the 1900s. Del Monte corporation which exports bananas and pineapples set up their pineapple plantations with in Bukidnon in the 1920s, while Castle and Cooke, which is now known as Dole, developed their plantations in South Cotabato in the 1960s. From Pulhin, J., & Ramirez, M. A. (2013). National updates on agribusiness large scale land acquisitions in Southeast Asia. Retrieved from https://www.forestpeoples.org/sites/fpp/files/publication/2013/08/briefing-4-8-philippines.pdf
From February 2020 to February 2021, women workers from Sumifru including a young woman researcher, mentor and co-researchers from the Women Studies and Resource Center (WSRC) conducted the Feminist Participatory Action Research (FPAR). The body clock activity, as well as focus group discussions and surveys were used to document the impacts of labour contractualisation and dangerous working conditions that women workers suffer from in the Sumifru banana packing plants in Davao de Oro.

The FPAR intends to empower women workers in Sumifru by capacitating women leaders through skills training and educational discussions to strengthen their union in demanding the full implementation of the Writ of Execution to Return to Work Order. Women workers suffered from Sumifru’s unjust and unsafe work policies as well as from the multiple burdens they are expected to carry in a patriarchal society. They are expected not only to support the family financially but also to attend to the needs of their family and communities. Women workers in the packing plants of Sumifru in Davao de Oro joined the strike to assert their human rights to living wages, social benefits and safe working conditions. While maintaining their struggle for their rights amidst Sumifru and the state’s suppression, the women continue to stand up to the multiple challenges of supporting themselves economically and the impacts of COVID-19 on their livelihoods and their union.
Lack of job security

The women workers at Sumifru do not have the security of tenure even if they stayed and worked at Sumifru for years. Some of them have been working at the packing plant for two years while others have already spent 18 years. They have a biannual evaluation process with their service providers which will assess whether their contracts will be renewed or not. The lack of security of tenure makes it difficult for the women workers to assert their rights. Regardless of the experience and years of training, workers still fear getting suspended, dismissed, or not getting their contracts renewed if they do not do what they are told. They are pressured to reach the daily quota for production, or they would get reprimanded and may not get their contracts renewed. Workers avoid absences as much as they could to increase their chance of getting contract renewal during the biannual evaluation. According to the women, having a union eased some of the problems as it enabled them to better assert their rights and demand due process.

The company also relies on backup workers to fill their daily production targets, especially during peak season. Due to the quota on how many workers should be given a slot to work for the day set by management, backup workers who are mostly women were the most disadvantaged. They are chosen on a first-come, first-serve basis; therefore, many of them could go home without both work and pay.

FPAR Findings

“The bananas [we] process are better-off, they are recognised by Sumifru as they have Sumifru stickers on them, but [us] workers are still not recognised as Sumifru employees.”

- Participant from Sumifru women workers
Unsafe working conditions, long working hours and low wages

The Philippine government passed the Occupational Safety and Health Standards Act in 2018 to protect labour rights and promote safe and secure working environments for all workers. In addition, the Philippines have ratified 38 International Labour Organisation (ILO) conventions to promote decent work for women and men. However, there is a serious implementation gap between the law on the book and how it is carried out in practice.

In the packing plants, the lack of implementation of ILO standards strips women workers of their right to safe and secure working environments. Wearing personal protective equipment (PPE) such as rubber boots, masks, gloves and hairnet was only compulsory during inspections. The women workers said the PPE was also uncomfortable to wear because of the poor ventilation in the packing plant. They admit to taking off their masks due to the heat. As a result, they would often feel nausea and difficulty of breathing due to the pesticides used on the bananas. Moreover, since the PPE issued to them is of poor quality, the workers choose not to use them because they will have to shoulder the full cost of the replacement. This will be an additional financial burden to them because they already must pay 40 per cent of the cost of their current PPE (around PHP 240 or USD 4.8).

Women working for SUMIFRU typically spend 12-20 hours a day in the banana packing plant with only about one hour and 41 minutes for a break. The workers are only allowed five minutes to use the bathroom. The quota system adds burden to their work. During peak season, they cannot leave their work premises until their quotas are filled even if they have already been working for more than eight hours. In some cases, they finish work at 2:00 AM and have to report the next day at 6:00 AM. The workers also multi-task, wherein they do two or three jobs per day but get only paid for one job. Despite the long period of work hours, the workers are required to work fast without jeopardising the quality of the products. Women workers suffer from the lack of adequate rest and sleep, which leave their immune systems weak and make them prone to sickness.

After long hours of work and being constantly exposed to agrochemicals, workers only earn an average of PHP 365 or around USD 7 a day compared to Sumifru’s daily revenues of PHP 38 million⁹ (around USD 760,000).

* Sumifru Petition for AJ Page 5 of 8.
Unaddressed burden of unpaid care work

Women still carry the burden of care work even while working full time jobs. Even if the women workers at Sumifru wanted to rest for the weekend, they would do household chores that they could not finish on workdays like laundry and cleaning their homes. The women workers admitted that they are often too exhausted to attend union meetings and activities and would rather sleep during their vacant times than mingle. They would also opt to stay at home instead of enjoying with their family outside to avoid additional expenses.

During COVID-19, distance learning was implemented in an effort to continue children’s education despite the pandemic. According to the women from Sumifru, supervising their children occupied a considerable portion of their time at home. Some of them cannot adequately help their children because they themselves did not finish their schooling.

“My son is already in the 12th Grade. Me? I only reached 6th Grade! What do I know about their lessons? I don’t understand them.”

-Participant from Sumifru women workers

Lack of maternity benefits and social protection

Filipino women are currently entitled to a maternity leave period up to 105 days with an option to extend for an additional 30 days without pay (Department of Labor and Employment, 2019). This maternity leave period meets the International Labour Organisation (ILO) standard of 14 weeks (ILO, 2014). However, Sumifru’s “no work, no pay” policy is even applied during maternity, which forces pregnant women to work until they are very near their expected date of delivery. The women get back to work as soon as possible since they are not given maternity leave benefits by Sumifru, despite the provisions of expanded maternity leave as guaranteed by Republic Act No. 11210, or the “105-Day Expanded Maternity Leave Law.” Paternity leave and solo parent leave which are also mandated by Philippine laws are also out of the question.

Other forms of social protection such as retirement benefits and separation pay are also not given by Sumifru. These are also not given by Sumifru’s service providers.


Use of militarism to break the strike and the union

The strike launched by NAMASUFA on 1 October 2018 successfully paralysed the operations of seven packing plants in Davao de Oro. On 11 October 2018, company thugs with personnel from the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) violently attacked and dismantled their strike camps. Several women suffered from physical injuries. The men who attacked the strike camp even pursued the women who sought refuge in nearby houses and threatened to burn the houses along with them. This resulted in mental trauma among some of the women workers.

The women workers also experienced threats, harassment and intimidation by Sumifru and the AFP. Sumifru’s petition to the Department of the Labor and Employment (DOLE) for an Assumption of Jurisdiction (AJ) that will order workers to stop the strike and return to work tagged the striking workers as members of the local communist insurgency. The women’s husbands and children were threatened by the military to convince them to quit the union. Some of them strained their relationship with their immediate family because they stood firm to fight with their union until they win. However, the women workers did not leave the union and were steadfast in their fight for their rights.
Women's Empowerment

Women workers have taken initiatives to fight for their human rights and fundamental freedoms. Before the COVID-19 lockdowns, they participated in the collective strike. As mentioned above, Sumifru and the state tried to suppress the strike through violence and intimidation. Despite the surveillance, harassment, the fear of being separated from their families, and of getting killed, the women workers intensified their union organising.

“We’ve been together for years. I can’t turn my back on them. We are more than siblings. We cried together, laughed together.”

-Participant from Sumifru women workers

The women workers established the Nagkahiusang Kababayen-ang Mamumuo sa Sumifru (NKMS) (United Women Workers of Sumifru) to represent themselves. They joined the caravan to Davao City and traveled with their fellow unionists to Manila City to call for national attention and support for their struggle. The women continued leading the workers and coordinated efforts to consolidate the unions’ membership even as the male members of the union remained under threat if seen in Davao de Oro. Their leadership was socially accepted, and they were recognised and respected in their community.

During the lockdown, the women workers took initiatives to look for other jobs or to find other sources of income. Some women workers opened sari-sari stores (small neighbourhood convenience stores in the Philippines) or helped their partners at work. Some had community gardens thanks to the efforts of the union leaders to maximise union linkages and provided relief packs to members of the union. Those who own agricultural lands cultivated and developed their farms to become their primary livelihood. Some grew their own food in their backyards.

Through the FPAR, they have become more aware of the need to act collectively and strengthen their organisation. The women leaders recognised that they need more training and capacity building to be more effective leaders and members of the organisation. The FPAR helped to capacitate the women as they learned and developed their skills as the FPAR progressed. Some of the activities that were conducted during the FPAR were consultations and workshops on basic women’s human rights, strategic
planning and organisational management. The women’s interpersonal skills and research abilities improved because of the consultations and workshops. The women workers were also able to actively participate in the celebration of the International Working Women’s Day (IWWD) on 8 March 2020. The Southern Mindanao Region theme for the IWWD 2020 was ‘Kababayen-an ug Katawhan Maghiusa! Batukan ang kalisod, pasistang rehimeng US-China-Duterte’, a call for all women and the people to unite against repression and the fascist US-China-Duterte Regime.

Recommendations

To the government of the Philippines

- Enact the Security of Tenure Bill which will effectively terminate all contractualisation schemes.
- Scrap Herrera Law.
- Enforce strictly fundamental human rights of workers enshrined in the Constitution of the Philippines:
  - The right to organise;
  - The right to collective bargaining;
  - The right to strike;
  - The right to enjoy the security of tenure;
  - The right to receive a living wage; and
  - The right to participate in policy and decision-making process affecting their ranks and benefits.
- Uphold and implement the International Labor Treaties (ILO No. 17 Workmen’s Compensation, ILO 95 Protection of Wages, ILO 98 for the Right to Organize and Collective Bargaining Convention, and ILO No 187 for Occupational Safety and Health) which were ratified by the Philippine Government that mandates the standards for decent work and other rights of the workers.
• Increase the number of labour officers and inspectors who evaluate and monitor the corporations’ adherence to labour standards, Occupational Safety and Health (OSH) standards and other protocols.

• Amend the law and process on strikes that curtail the right of the workers to conduct the same.

• Impose heavier sanctions on the corporations that violate labour standards.

• Ensure the conduct of free, prior and informed consent (FPIC) processes for communities, including women farmers, workers, and indigenous peoples in any plans to create special economic zones (SEZs) in Davao de Oro.

To the Philippine and Japanese governments

• The Japanese government must exercise its extraterritorial obligations in upholding human rights, including ending labour contractualisation practices, and protecting other labour rights.

• The Philippine and Japanese governments must ensure that appropriate remedies and compensations are awarded to the workers, including:
  ◦ Order/regulate Sumifru to implement the National Labour Relations Commission’s order to reinstate the terminated workers.
  ◦ Sumifru must recognise NAMASUFA workers as its regular workers and enter into a collective bargaining agreement with the labour union.
  ◦ Penalise Sumifru for arson, harassment, physical injuries, and illegal dispersal of the union’s strike, and compensate the victims.
  ◦ Compensate workers who were displaced from their jobs as a result of Sumifru defying the order to reinstate them.
  ◦ Give the workers who have retired and/or who are of retiring age their separation pay according to their length of service.

To Sumifru

• Implement the Writ of Execution to Return to Work Order and end contractualisation.

• Uphold both international and local labour laws and standards and ensure workers’ access to fundamental human rights and decent work.

• Pay the living wage and provide workers with job security.

To women workers

• Women leaders need to be in close contact with unionists to stay solid and make their voices heard.

• Be firm in their fight for legitimate rights and against unfair practices through collective action.
About the Women Studies and Resource Center (WSRC), the Philippines

WSRC started out primarily as a research centre in 1982 and focused on organising women from the academy and other professions. WSRC shifted its focus from mainly research into organising and capacitating women to be directly involved in movements for women’s rights, social change and peace. WSRC envisions a progressive and egalitarian society free from discrimination and exploitation where women’s right to participate and lead meaningfully in all political, socio-cultural and economic undertakings is upheld; shaping a peaceful, socially just and sustainable future.

About APWLD

The Asia Pacific Forum on Women, Law and Development (APWLD) is the region’s leading network of feminist organisations and individual activists. For 35 years, we have been carrying out advocacy, activism and movement-building to advance women’s human rights and Development Justice.

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This publication was produced with support from the Norwegian Agency for Development Cooperation (Norad), Swedish International Development Cooperation Agency (Sida), Foundation for a Just Society (FJS), and Wellspring.