



Republic of the Philippines  
Supreme Court  
Manila

OFFICE OF THE 2020 BAR CHAIR

**BAR BULLETIN NO. 4, S. 2020**

SYLLABUS FOR THE BAR EXAMINATION

LABOR LAW AND SOCIAL LEGISLATION

Attached is the coverage for Labor Law and Social Legislation, which will be held on November 8, 2020.

Bar candidates are advised to be guided by the provisions of the Constitution, laws, rules, issuances, and canonical jurisprudential doctrines pertinent to the topics enumerated as of June 30, 2019 except when provided in the relevant syllabus.

For your information and guidance.

February 14, 2020.

A handwritten signature in black ink, appearing to read "Marvic M.V.F. Leonen", written over a horizontal line.

MARVIC M.V.F. LEONEN

Associate Justice and  
2020 Bar Examinations Chair

# SYLLABUS FOR THE 2020 BAR EXAMINATIONS

## LABOR LAW AND SOCIAL LEGISLATION

*Note: All Bar candidates should be guided that — except when provided in the syllabus — only laws, rules, issuances, with their respective amendments; and canonical doctrines pertinent to these topics as of June 30, 2019 are examinable materials within the coverage of the 2020 Bar Examinations.*

### I. FUNDAMENTAL PRINCIPLES

- A. Legal basis
  - 1. 1987 Constitution
  - 2. Civil Code
  - 3. Labor Code
- B. State policy towards labor
  - 1. Security of tenure
  - 2. Social justice
  - 3. Equal work opportunities
  - 4. Right to self-organization and collective bargaining
  - 5. Construction in favor of labor
  - 6. Burden of proof and quantum of evidence

### II. RECRUITMENT AND PLACEMENT

- A. Definition of recruitment and placement
- B. Regulation of recruitment and placement activities
  - 1. Regulatory authorities
    - a. Philippine Overseas Employment Administration
    - b. Regulatory and visitorial powers of the Department of Labor and Employment Secretary
  - 2. Ban on direct hiring
  - 3. Entities prohibited from recruiting
  - 4. Suspension or cancellation of license or authority

5. Prohibited practices
- C. Illegal Recruitment
  1. Elements
  2. Types
  3. Illegal recruitment as distinguished from *estafa*
- D. Liability of local recruitment agency and foreign employer
  1. Solidary liability
  2. Theory of imputed knowledge
- E. Termination of contract of migrant worker
- F. Employment of non-resident aliens

### III. LABOR STANDARDS

- A. Conditions of employment
  1. Hours of work
    - a. Principles in determining hours worked and employees exempted or not covered
    - b. Compensable Time
      - i. Normal hours of work
      - ii. Night shift differential
      - iii. Overtime work
        - (a) Compressed work week
        - (b) Built-in overtime
    - c. Non-compensable hours; when compensable
      - i. Meal break
      - ii. Power interruptions or brownouts
      - iii. Idle time
      - iv. Travel time
      - v. Commuting time
      - vi. Waiting time
  2. Rest periods
  3. Service Charge

B. Wages

1. Definition, components, and exclusions
  - a. Wage vs. salary
  - b. Distinguish: facilities and supplements
  - c. Bonus, 13<sup>th</sup> month pay
  - d. Holiday pay
2. Principles
  - a. No work, no pay
  - b. Equal pay for equal work
  - c. Fair wage for fair work
  - d. Non-diminution of benefits
3. Minimum wage
  - a. Payment by hours worked
  - b. Payment by results
4. Payment of wages
5. Prohibitions regarding wages
6. Wage determination
  - a. Wage order
  - b. Wage distortion

C. Leaves

1. Labor Code
  - a. Service incentive leave
2. Special laws
  - a. Parental leave for solo parents
  - b. Expanded maternity leave
  - c. Paternity leave
  - d. Gynecological leave
  - e. Battered woman leave

D. Sexual harassment in the work environment

1. Definition
2. Duties and liabilities of employers

3. Applicable laws:
  - a. Sexual Harassment Act
  - b. Safe Spaces Act
- E. Working conditions for special groups of employees
  1. Apprentices and learners
  2. Disabled workers
    - a. Equal opportunity
    - b. Discrimination on employment
    - c. Incentives for employers
  3. Gender
    - a. Discrimination
    - b. Stipulation against marriage
    - c. Prohibited acts
    - d. Facilities for women
    - e. Women working in night clubs, etc.
  4. Minors
  5. *Kasambahays*
  6. Homeworkers
  7. Solo parents
  8. Night workers
  9. Migrant workers
  10. Security guards

#### IV. POST-EMPLOYMENT

- A. Employer-employee relationship
  1. Tests to determine existence
  2. Legitimate subcontracting as distinguished from labor-only contracting
    - a. Elements
    - b. Trilateral relationship
    - c. Liabilities

3. Kinds of employment
  - a. Regular
  - b. Casual
  - c. Contractual
  - d. Project
  - e. Seasonal
  - f. Fixed-term
  - g. Probationary; private school teachers
- B. Termination by employer
  1. Requisites for validity
    - a. Substantive due process
      - i. Just causes
      - ii. Authorized causes
    - b. Procedural due process
  2. Preventive suspension
  3. Illegal dismissal
    - a. Kinds
      - i. No just or authorized cause
      - ii. Constructive dismissal
        - (a) Burden of proof
        - (b) Liability of officers
        - (c) Reliefs from illegal dismissal
  4. Money claims arising from employer-employee relationship
  5. When not deemed dismissed; employee on floating status
- C. Termination by employee
  1. With notice to the employer
  2. Without notice to the employer
  3. Distinguish voluntary resignation and constructive dismissal
- D. Retirement

## V. LABOR RELATIONS

- A. Right to self-organization
  - 1. Who may or may not exercise the right
    - a. Doctrine of necessary implication
  - 2. Commingling or mixture of membership
  - 3. Rights and conditions of membership
    - a. Nature of relationship
      - i. Member-Labor union
      - ii. Labor union federation
        - (a) Disaffiliation
        - (b) Substitutionary doctrine
- B. Bargaining unit
- C. Bargaining representative
  - 1. Determination of representation status
- D. Rights of labor organizations
  - 1. Check off, assessment, agency fees
  - 2. Collective bargaining
    - a. Duty to bargain collectively
    - b. Collective Bargaining Agreement
      - i. Mandatory provisions in a Collective Bargaining Agreement
- E. Unfair labor practices
  - 1. Nature, aspects
  - 2. By employers
  - 3. By labor organizations
- F. Peaceful concerted activities
  - 1. By labor organization
    - a. Strike
      - i. Valid strikes as distinguished from illegal strikes
    - b. Picket
  - 2. By employer
    - a. Lockout

3. Assumption of jurisdiction by Secretary of Labor and Employment
  - a. Industry indispensable to the national interest
  - b. Effects of assumption of jurisdiction

## **VI. MANAGEMENT PREROGATIVE**

- A. Discipline
- B. Transfer of employees
- C. Productivity standards
- D. Bonus
- E. Change of working hours
- F. Bona fide occupational qualifications
- G. Post-employment restrictions
- H. Marriage between employees of competitor-employers

## **VII. SOCIAL LEGISLATION**

- A. Social Security System Law
  1. Coverage and exclusions
  2. Dependents and beneficiaries
  3. Benefits
- B. Government Service Insurance System Law
  1. Coverage and exclusions
  2. Dependents and beneficiaries
  3. Benefits
- C. Limited Portability Law
- D. Disability and death benefits
  1. Labor Code
  2. Employees Compensation and State Insurance Fund
  3. Philippine Overseas Employment Administration-Standard Employment Contract
- E. Solo Parents
- F. Kasambahay
- G. Agrarian Relations



1. Concept of agrarian reform
  2. Existence and concept of agricultural tenancy
  3. Rights of agricultural tenants
  4. Concept of farmworkers
- H. Universal Health Care
1. Policy
  2. Coverage
  3. National Health Insurance Program

### **VIII. JURISDICTION AND REMEDIES**

- A. Labor Arbiter
1. Jurisdiction of the Labor Arbiter as distinguished from the Regional Director
  2. Requirements to perfect appeal to National Labor Relations Commission
  3. Reinstatement and/or execution pending appeal
- B. National Labor Relations Commission
- C. Court of Appeals
- D. Supreme Court
- E. Bureau of Labor Relations
- F. National Conciliation and Mediation Board
1. Jurisdiction
  2. Conciliation as distinguished from mediation
  3. Preventive mediation
- G. Department of Labor and Employment Regional Directors
1. Jurisdiction
  2. Recovery and adjudicatory power
- H. Department of Labor and Employment Secretary
1. Jurisdiction
  2. Visitorial and enforcement powers
  3. Power to suspend effects of termination
  4. Remedies

- I. Voluntary Arbitrator
  - 1. Jurisdiction
  - 2. Remedies
- J. Prescription of actions
  - 1. Money claims
  - 2. Illegal dismissal
  - 3. Unfair labor practice
  - 4. Offenses under the Labor Code
  - 5. Illegal recruitment

## LIST OF RELEVANT LAWS AND ISSUANCES

### I. THE 1987 CONSTITUTION

### II. LAWS AND RULES OF PROCEDURE

Pres. Decree No. 442	Labor Code of the Philippines
Rep. Act No. 386	Civil Code of the Philippines, articles 1700–1703
Rep. Act No. 8042 as amended by: Rep. Act No. 10022	Migrant Workers and Overseas Filipinos Act of 1995
Rep. Act No. 9208 as amended by: Rep. Act No. 10364	Anti-Trafficking in Persons Act of 2003
Rep. Act No. 11227	Handbook for OFWs Act of 2018
Pres. Decree No. 626	Amending Certain Articles of the Labor Code
Pres. Decree No. 851	13 <sup>th</sup> Month Pay Law
Rep. Act No. 11165	Telecommuting Act
Rep. Act No. 11210	105 Day Expanded Maternity Leave Law
Rep. Act No. 8187 as amended by: Rep. Act No. 11210	Paternity Leave Act of 1996
Rep. Act No. 8972 as amended by: Rep. Act No. 11210	Solo Parents' Welfare Act

Rep. Act No. 9710	Magna Carta of Women
Rep. Act No. 6725	Amending Art. 135 of the Labor Code Re: Prohibition on Discrimination Against Women
Rep. Act No. 9262	Anti-Violence Against Women and Their Children Act of 2004
Rep. Act No. 11313	Safe Spaces Act
Rep. Act No. 7610 as amended by: Rep. Act No. 9231	Special Protection of Children Against Abuse, Exploitation and Discrimination Act
Rep. Act No. 10361	Batas Kasambahay
Rep. Act No. 7877	Anti-Sexual Harassment Act of 1995
Rep. Act No. 7699	Portability Law
Rep. Act No. 6715	New Labor Relations Law
Rep. Act No. 6727	Wage Rationalization Act
Rep. Act No. 6971	Productivity Incentives Act of 1990
Rep. Act No. 8282	SSS Law
Rep. Act No. 8291	GSIS Law
Rep. Act No. 11199	Social Security Act of 2018
Rep. Act No. 10801	Overseas Workers Welfare Administration Act

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Rep. Act No. 11223      Universal Health Care Act

Rules of Court      Rules 45 and 65

### **III. ISSUANCES**

Exec. Order No. 126      Reorganization Act of the Ministry of Labor and Employment

DOLE Advisory No. 2,      Guidelines on the Adoption of Flexible  
s. 2009      Work Arrangements

DOLE Order No. 150,      Revised Guidelines Governing the  
s. 2016      Employment and Working Conditions of Security Guards and other Private Security Personnel in the Private Security Industry

POEA Memorandum      Amended Standard Terms and Conditions  
Circular No. 010-10      Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships

Revised National Conciliation and Mediation Board Manual of Procedures for Conciliation and Preventive Mediation Cases 2017 Edition

**- NOTHING FOLLOWS -**