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**LABOR LAW**  
**PRE-WEEK NOTES**  
**FOR THE 2015 BAR EXAMS**

By:

Prof. Joselito Guianan Chan  
=====

Sources of rights of labor and employment:

1. Constitutional rights and mandates
2. Police power of the State
3. Labor Code of the Philippines and its Implementing Rules and Regulations
4. Civil Code
5. Revised Penal Code
6. International Covenants
7. Collective Bargaining Agreements
8. Past practices or company policies

**TOPIC NO. 1**  
**FUNDAMENTAL PRINCIPLES AND POLICIES**

**A.**  
**CONSTITUTIONAL PROVISIONS**

• **What are the significant constitutional principles related to Labor Law?**

The following principles are noteworthy:

• Under **Article II (Declaration of Principles and State Policies)**:

- a. Promotion of **full employment**, a **rising standard of living**, and an **improved quality of life** for all.
- b. Promotion of **social justice** in all phases of national development. Social Justice - humanization of laws and the equalization of social and economic forces by the State so that justice may at least be approximated.
- c. Full respect for **human rights**.
- d. Vital role of the **youth in nation-building**.
- e. Role of **women in nation-building**, and fundamental **equality before the law of women and men**.
- f. Indispensable role of the **private sector**.
- g. **Protection-to-labor clause**: "**Section 18. The State affirms labor as a primary social economic force. It shall protect the rights of workers and promote their welfare.**"

**NOTE:** Article II is merely a statement of principles and state policies. Its provisions are **not self-executing**. They do not embody judicially enforceable constitutional rights but guidelines for legislation. These broad constitutional principles need legislative enactments to implement them. **The disregard of these provisions cannot give rise to a cause of action in the courts. Consequently, no case can be filed based on these principles. There must be enabling laws to implement them.**

• Under **Article III (Bill of Rights)**:

- a. **Due process** and **equal protection** of the law.
- b. **Freedom of speech, of expression, or of the press**, or the right of the people **peaceably to assemble and petition the government for redress of grievances**.
- c. **Right of the people to information** on matters of **public concern**. **Access to official records**, and to **documents and papers** pertaining to **official acts, transactions, or decisions**, as well as to **government research data** used as basis for policy development, shall be afforded the citizen, **subject to such limitations as may be provided by law**.
- d. Right of public and private sector employees to form **unions, associations, or societies for purposes not contrary to law shall not be abridged**.
- e. **Non-impairment of obligations of contracts**.
- f. **Right to speedy disposition of cases** in judicial, quasi-judicial or administrative bodies.
- g. Prohibitions against **involuntary servitude**.

Under **Article XIII (Social Justice and Human Rights)**:

a. **Protection-to-Labor Clause: VERY IMPORTANT**

**Section 3.** The State shall afford **full protection to labor, local and overseas, organized and unorganized**, and promote **full employment and equality of employment opportunities** for all. Organized - with CBA

It shall guarantee the rights of all workers to **self-organization, collective bargaining and negotiations, and peaceful concerted activities, including the right to strike in accordance with law**. They shall be entitled to **security of tenure, humane conditions of work, and a living wage**. They shall also **participate in policy and decision-making processes affecting their rights and benefits** as may be provided by law.

The State shall promote the **principle of shared responsibility** between workers and employers and the **preferential use of voluntary modes in settling disputes**, including **conciliation**, and shall enforce their **mutual compliance** therewith to foster **industrial peace**.

The State shall regulate the relations between workers and employers, recognizing the **right of labor to its just share in the fruits of production** and the **right of enterprises to reasonable returns to investments, and to expansion and growth**.

• **What are the due process principles applicable in termination of employment?**

1. **Constitutional due process** is not applicable to termination of employment. This means that the employee undergoing investigation leading to his dismissal cannot invoke constitutional due process if and when he is deprived of due process by the employer. This is so because **constitutional due process may only be invoked against the State or government**. However, after being dismissed, the employee who files an illegal dismissal case may invoke constitutional due process in case he is deprived of due process by the Labor Arbiter, the NLR, or the



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