

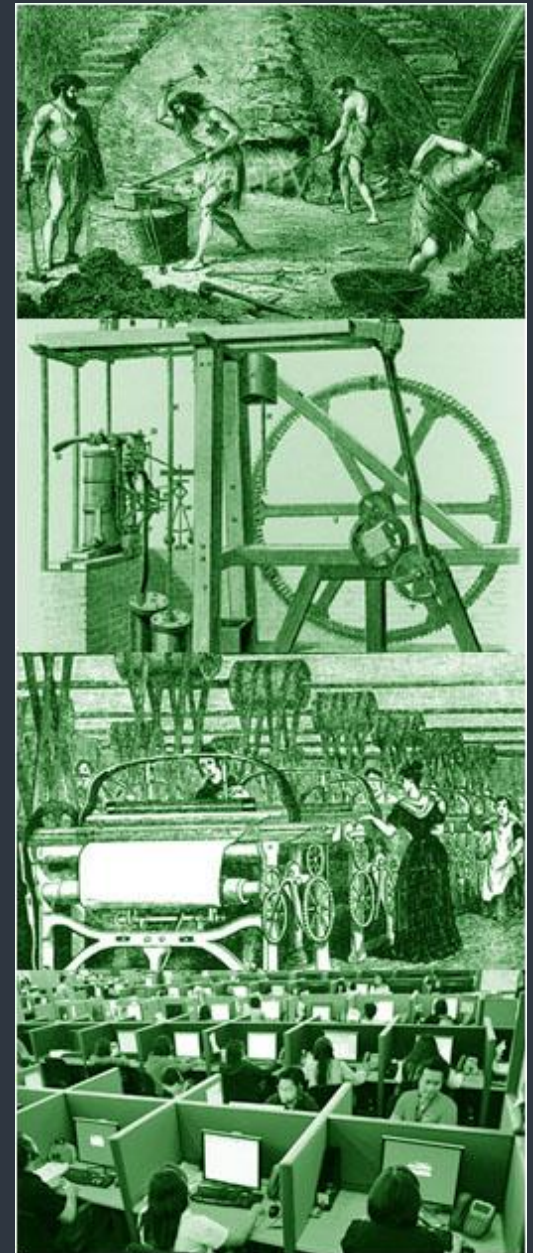


Emerging Global Perspectives in Job Contracting

Ernie Cecilia, DPM

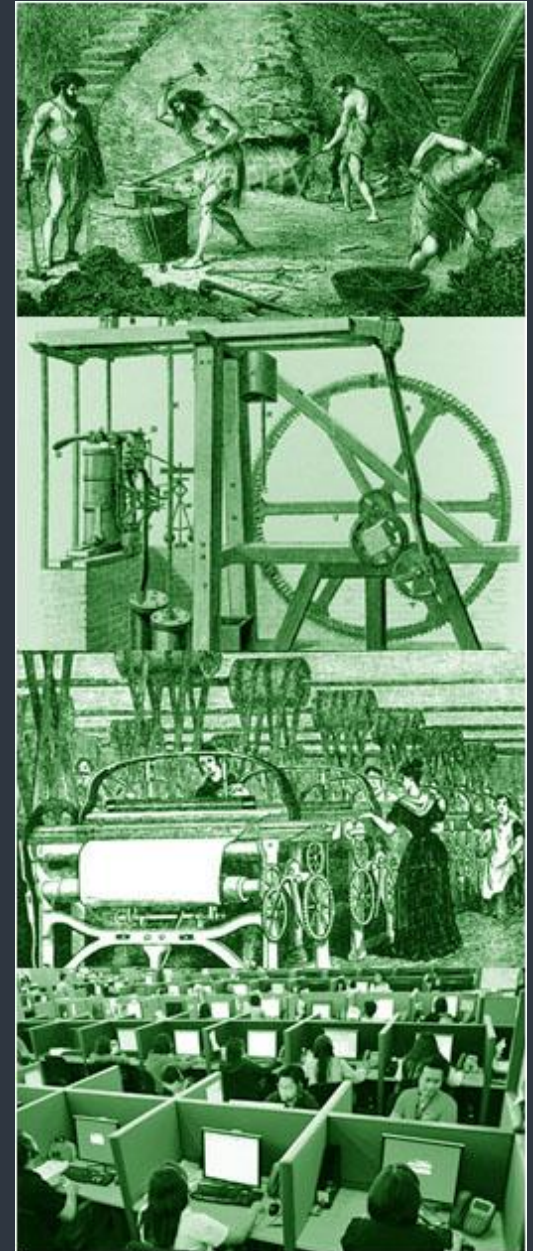
Brief History of Work

- We were all entrepreneurs (hunters) in pre-historic times
- The Steam Engine was invented and started the first Industrial Revolution in Great Britain and the world
- The Industrial Revolution was a transition to new manufacturing processes from 1760 to about 1840



Brief History of Work

- Frederick Winslow Taylor developed the One Best Way method of mass production
- In mid-1900s, the Organization Man rose to prominence
- By mid-2000s, the new icon is an independent worker serving multiple clients instead of a single boss



Largest Private Employers

- In the USA, it's not General Motors or Ford (Detroit) or Microsoft (Seattle) or Amazon.com
- The biggest private employer in the USA is Manpower Inc., a temp agency
- The biggest private employer in the Philippines is not San Miguel or PLDT
- The Philippines largest private employers are a manpower cooperative and a BPO outsource provider

Greatest Ironies

- The business of doing business has changed, but the rules governing employment in business have not
- The major sources of wealth in the past were physical matters; today, they are ideas, information, relationships
- Old notions still hold on how companies should operate, how to provide benefits, pay, retirement, and regular work arrangement

Greatest Ironies

- The educational system still prepares graduates to perform regular jobs in companies
- In business today, you can make, buy or borrow what you sell and who work for you



Greatest Ironies



- More than half of the workers in the Philippines are in **services**; the rest are in agriculture, manufacturing or self-employed in family undertakings
- The government still classifies workers into two – **agricultural and non-agricultural**



Greatest Ironies

- In the USA, soloists, temps and micro businesses are the single largest cluster of workers in the economy
- In California, more than 66% of workers do not hold traditional jobs
- Yet, here and in the USA, all labor laws are based on the concept of employer-employee relationship

Rise of Non-Standard Employment



The Beginning

- In the 1900s, Fordism spread to the rest of the world
- Characterized by mass production and mass consumption; fragmentation and simplification of tasks; linear production and moving production line; standardization of parts, methods, and human labor
- Fordism resulted in full time employment with expectations of job security, increasing wages, etc.
- Fordism experienced a crisis of profitability in the 1950s and declined in the 1970s

Rise of Non-Standard Employment

Toyotism

- As Fordism declined, “Toyotism” or the Japanese Lean Production (JLP) system took over
- Ohno Taiichi, Toyota’s production control expert, invented the kanban or Just-in-Time (JIT)
- Toyotism addressed the productivity and profitability concerns of Fordism
- Toyotism was anchored on JIT, TQC (total quality control) and TW (team work)
- Toyotism was really Neo-Fordism



Rise of Non-Standard Employment

Toyotism in the West

- Preferred locations that are rural and non-unionized
- Strict recruitment process that chose only those with required attitudinal attributes
- Workers were put on temporary employment, with hopes of a regular employment if they conform with company expectations
- Toyotism prefers a compliant workforce without union representation



TOYOTA

Rise of Non-Standard Employment

Flexible Forms of Employment

- As Fordism declined, Toyotism became the norm
- Employers continued to find more cost-savings through customization, contracting, sub-contracting, offshoring, and downsizing
- Flexible production resulted in mass customization and required flexible labor
- With de-standardization came part-time work, tempo work, fixed term employment, and self-employment

Rise of Non-Standard Employment

Non-Standard Employment

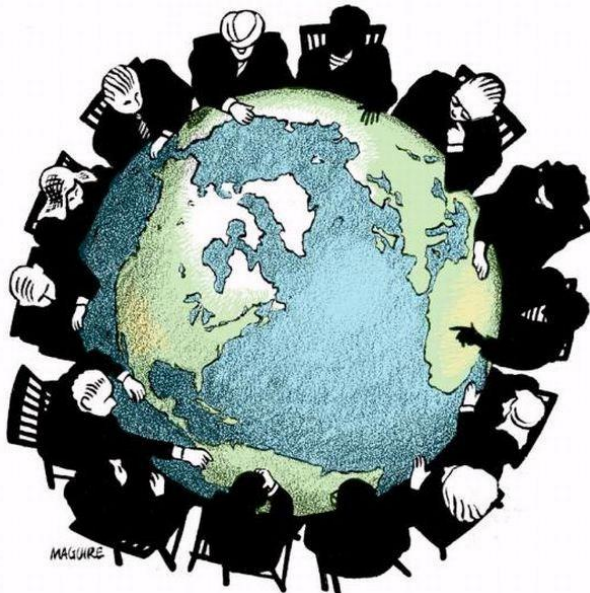
- Includes part-time, temporary, casual, project-based, seasonal, agency, disguised self-employment
- Large number of low-skilled, routine workers with limited duration; ILO calls this precarious work
- Small number of high-skilled, highly paid, non-routine workers



Rise of Non-Standard Employment

Globalization Behind Non-Standard Employment

- Decline of capital-intensive manufacturing
- Rise of low-capital, labor intensive services
 - As global competition intensified, firms resorted to restructuring, supply-chain rationalization, and sought numerical flexibility to reduce costs



Rise of Non-Standard Employment

Globalization Behind Non-Standard Employment

- “At its core, capital is global. As a rule, labor is local.”
- The de-standardization of work resulted in the individualization of labor, and workers need to negotiate terms of work individually, not collectively



Rise of Non-Standard Employment

Non-Standard Employment in Services

- McDonald's pioneered the Fordist approach to interactive service delivery in the 1950s
- Fragmented and simplified work tasks, use of single purpose machines, use of standard parts in speedy delivery of high volume of inexpensive low-quality products, standardization in how workers appear, and what to say
- Operations mirrored in manuals on how to operate the restaurant and how workers perform tasks
- Marked distinction between small core of educated workers and the “disposable labor force”



Rise of Non-Standard Employment

Temporary Agency Workers

- in 2011, the tempo agencies worldwide employed 46 million people and earned EUR259 billion (USD356 billion) in revenues
- 140,000 private employment agencies, 179,000 branches worldwide, and employed 863,000 internal staff
- Market share: Europe 41%, USA 23%, Japan 17%, UK 11%
- Asia-Pacific has 61% of total PrEAs, Europe 24%, North America 11%; (Top 3 countries USA, China and Japan has 67% of total PrEAS)

Rise of Non-Standard Employment

Tempo Agency Work Quick Facts

- Agency workers work half the hours worked by regular workers
- Most agency assignments are more than 1 month
- 57% of agency workers in Europe are below age 30
- 77% of agency workers have finished high school
- Majority of agency workers are in manufacturing and services



Rise of Non-Standard Employment

Tempo Agency Work (TAW) Quick Facts

- TAW is mostly deregulated in many countries
- Terms and conditions are negotiated individually
- TAWrs work in various workplaces, even during the same contract
- Work duration ranges from few hours to few years
- More women and younger workers at the low-end of the TAW market



Rise of Non-Standard Employment

ILO Recognizes Role of TWAs



“Temporary work agencies are intermediaries in modern labor markets that allow enterprises to have more flexibility to increase or decrease their workforce, while ensuring for the workers sufficient security in terms of job opportunities and employment standards, including pay, working time and training. While they have long been recognized as complimenting public employment services, they can also help to improve working conditions.

Temporary agency work can be an effective stepping stone for new entrants into the labor market and hence, contribute to increased job creation.” (2009)

Rise of Non-Standard Employment



Non-Standard Employment in ASEAN 6 (2010)

- 65% of workers in the formal sector are NSEs in Indonesia
- 33% of workers in the formal sector are NSEs in the Philippines
- 25% of all workers in Malaysia are non-standard workers
- 74% of workers in Thailand are in the informal sector
- 33% of labor contracts are fixed-term (1 to 3 yrs.) in Vietnam; higher in FDI areas

How “Free Agency” Came About

- The social contract of work (loyalty traded for security) crumbled as a concept
- Today’s means of production (tools necessary to create wealth) became less expensive, more accessible, and more easy for one person to operate
- Increasing prosperity (enlarging middle class) all over the world allowed people to think of work not only as a way to make money, but also to find meaning; this leads many to seek work-life integration
- More than 80% of Filipinos today were not alive during the mid-1900s

FREE AGENT NATION

How America’s New
Independent Workers
Are Transforming
the Way We Live

DANIEL H. PINK

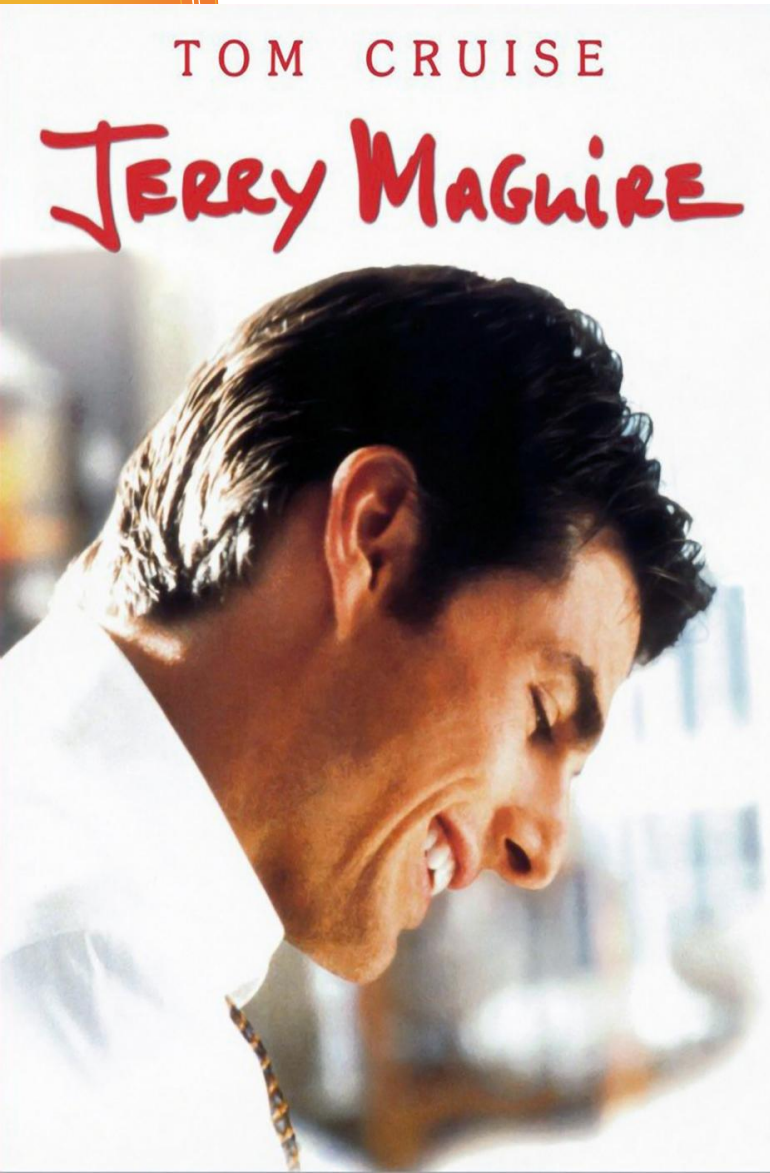
Changing Work Ethic

- *“We’re moving back to the butcher, the baker, the candlestick maker.” - Norm Stoehr*
- *“It’s like a gym class for the mind – a little stretching, a lot of aerobics, and a very small cool-down, versus the traditional work ethic, which feels like one endless push-up.” - Nancy Halpern*

Nancy Halpern Ibrahim, Executive Director
of Esperanza Community Housing, to
Receive One of UCLA’s Highest Honors



Changing Work Ethic



- *“Suddenly it was all pretty clear. The answer was fewer clients, less money. More attention. Caring for them, caring for ourselves. Starting our lives, really. I was 35. I had started my life.” - Jerry Maguire (Tom Cruise)*
- *“What’s my new work ethic? I tend to work where and when it makes the most sense. I do the things that I do better than anyone else. I associate with organizations whose values fit with mine. I either love them or leave them.” - Ernie Cecilia*

Finding Meaning in the New Work Ethic

- **Freedom** – Being a “free agent” is all about being free to follow one’s path and purpose. Corporations have not created an environment where people can exercise enough freedom to be able to do that.
- **Authenticity** – It’s when you don’t have to put on masks or game faces at work, or don armor or erect smoke screens. The ultimate freedom is the freedom to be one’s self.
- **Accountability** – “The more developed person prefers responsibility to dependency or passivity most of the time.” – Abraham Maslow
- **Self-defined success** – “A man is a success if he gets up in the morning and does what he wants to do.” – Bob Dylan

Reality Check

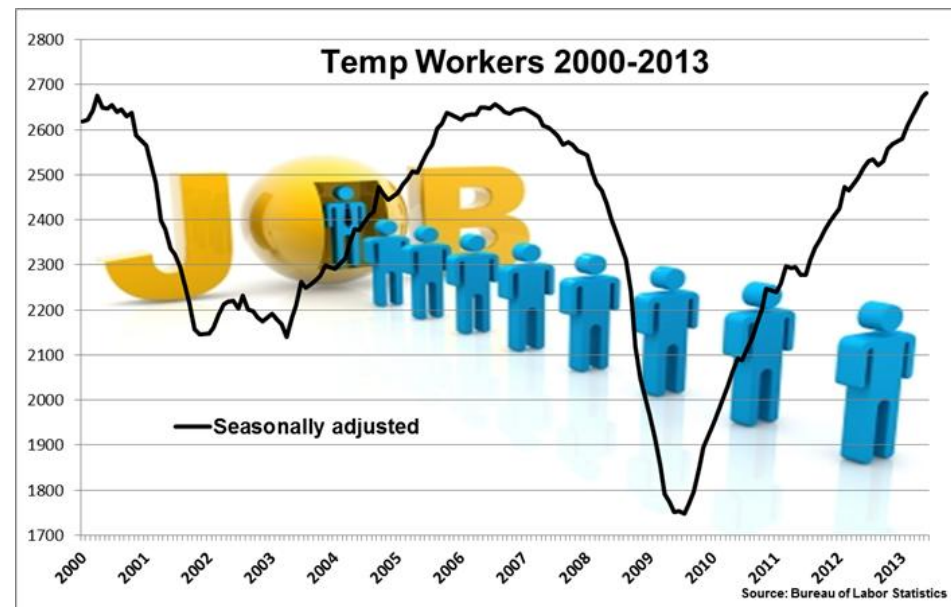
- Every year, 500-700K graduate from college; the same number turn 15 and join the labor force
- Industry has a 16% absorptive capacity – less than 200k new regular jobs per year



- 84% of graduates don't find decent jobs right after graduation
- There are more than 12 million jobless Filipinos – SWS

Reality Check

- Most corporations don't want to hire regular employees, if they can avoid it
- Companies prefer new sets of employees who are more skillful, productive and motivated
- Skills requirements generally change every five to ten years, as life cycles of products and business models are getting shorter



Reality Check

- Job contracting is highly regulated in the Philippines
- Other countries have more liberal job contracting and outsourcing policies
- In other ASEAN countries, job contracting and subcontracting are allowed for longer terms
- In more progressive countries, security of tenure does not pressure employers to regularize employees
- In more progressive countries, employers can hire and fire at will, provided there is ample compensation for termination of employment
- The Philippines has the highest unemployment rate in ASEAN

Typical Options for Businessmen

- Hire casuals for less than one year to perform jobs not “usually necessary or desirable in the usual business or trade of the employer...”
- Hire temporary employees for less than six months (to avoid regularization of employee after six months)
- Contract out or outsource the function – preferred option



Typical Concerns on Non-regular Employees

- Non-productive
- Usually needs training
- Usually needs replacement before they can master the job
- Contract period eats up learning curve
- Costly recruitment
- Ill effects on quality of service or performance
- Other hidden costs or disadvantages

Typical Viable Options

- Engage a contractor to perform reliable service
- Engage a cooperative as a service contractor



Word of Caution

- Businessmen choose their manpower services provider carefully – it could make or unmake their business
- Ensure that the manpower services provider protects the client company's interests
- Businessmen use a more holistic evaluation of bidders – administrative charges should not be the only criterion
- If a contractor is not compliant, the principal can be construed as the employer of the contractor's employees

The Law on Job Contracting

Labor Code of the Philippines, in Article 106 to 109, provides:

- Employees of the contractor and subcontractor shall be paid in accordance with the Labor Code
- In the event of failure to pay wages, the principal shall be “jointly and severally liable with his contractor or subcontractor...”
- DOLE may restrict or prohibit the contracting out of labor to protect the rights of workers

The DOLE may ...

- Make appropriate distinctions between labor-only contracting and job contracting
- Make differentiations within these types of contracting
- Determine who among the parties involved shall be considered the employer for purposes of this Code

Labor Service Cooperatives are governed by

...

- Labor Code Articles 106-109
- DOLE Department Order No. 18-A
- Pertinent DOLE Department Advisory
- CDA rules and regulations
- Jurisprudence on job contracting

Labor Service Cooperatives ...



- help provide employment to hundreds of thousands of people
- are often misunderstood by regulators
- are often seen as competition and threat to service companies that are of a different business form – single proprietorship, partnership, or corporation

Labor Service Cooperatives ...

- are supposed to be protected by the Constitution and given preferential treatment
- might eventually go out of business as a social enterprise if preferential treatment is withheld, knowingly or unwittingly, by government regulators



**COOPERATIVE DEVELOPMENT
AUTHORITY**



Labor Service Cooperatives ...

- Need understanding, acceptance and support from the business sector and the regulators
- Must understand business and social issues and speak in one voice
- Must prepare for the eventual ASEAN economic integration



Labor Service Cooperatives ...

- Must engage in real job contracting
- Must stop supplying warm bodies only!
- Must coalesce and make its voice heard on issues affecting their business
- Must show that their members benefit the most – more than what other business forms offer or give



Labor Service Cooperatives ...

*“Now, more than ever, the **challenges** for cooperatives in general, and for labor service cooperatives in particular, are greater in **number and magnitude**. Unless we hold hands together and fight for the **interest and survival** of cooperatives, we will wake up one day to find that cooperatives are even more **decimated and marginalized** by rent-seeking capitalists. Let our **collective voices** be heard far and wide, until our aims are achieved and our gains preserved. If we don’t help ourselves, **no one else will**.”*

- Ernie Cecilia, DPM



Thanks and God Bless!

Ernie Cecilia, DPM

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