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# **FINDING POLICIES THAT WORK: EXAMINING THE CASE OF FILIPINO FREELANCERS**


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ANALYSIS

# Imprint

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## Executive Summary

Freelancing work is booming in the Philippines. It presents a great opportunity for Filipinos to make additional income or pursue their passion, especially among workers who are marginalized in the traditional labor standards. Although freelance work is now a reality for many Filipino employees, as well as promoted by the Philippine government through pronouncements and small-scale interventions, there persists a data gap on this labor force. More than this, there persists a legislation gap covering freelance workers in the country.

This policy brief identifies five reasons that Filipinos engage in the online freelancing gig. These are 1) flexibility, 2) fast turnaround of work, 3) potential for the marginalized sector to be included as the economy develops, 4) greater freedom to pursue passion and upward career development, and 5) higher salaries, especially for online freelancers doing specialized tasks. Aside from these, this policy brief also identifies structural factors ingrained in Philippine society that drive Filipinos to engage in online freelance work. These structural factors are 1) the Philippine government's branding of Filipinos as industrious and service-oriented, 2) the business process outsourcing culture in the Philippines, 3) prevailing norms of labor insecurity and informality, and 4) difficult work conditions from previous jobs.

The Philippine government has harnessed its labor force and has implemented interventions to facilitate Filipinos' employment in online freelance work. What the Philippines has not done yet, however, is to legislate laws and implement policies that protect freelancers. The common concerns of freelancers are identified to be 1) lack of social benefits, 2) lack of security of tenure, 3) lack of company-sponsored benefits, 4) lack of insurance, 5) difficulty filing taxes, 6) difficulty in organizing as a collective, 7) hyper-competitive nature of freelance work, 8) personal space blurring with professional space, 9) feeling of isolation, and 10) infrastructure problems.

Despite the Philippines being a signatory to international instruments guaranteeing decent work, there is currently no domestic legislation that comprehensively governs the work conditions of digital platforms, specifically those that relate to labor relations, work conditions, and social dialogues, to name a few. Alarming, this gap is only projected to increase as more Filipinos turn to freelance in a policy environment that cannot keep up. This has huge implications on two fronts: first, the Philippines is not able to fully reap the benefits of the growing freelancing labor force in terms of collecting revenues, and second, freelance workers continue to be vulnerable as compared to those in regular employment.

Responding to the gaps in data and legislation, this policy brief suggests short-, medium-, and long-term recommendations to include freelancers in the formal economy and reap the individual and national benefits freelancing has to offer. The freelance workers' sector is huge. Policies that are meant to protect freelance workers must, just like freelance work, be flexible and adaptable. It is now within the Philippine government's initiatives to find policies that work.

## Table of contents

Introduction	5
Freelance Work in the Philippines	5
Common Concerns of Freelancing in the Philippines	8
Protecting the Rights of Freelance Workers in the Philippines	10
Policy environment 1: Gaps in Philippine Legislation	11
Policy Environment 2: Policies and Proposed Laws	13
Implications of Lack of Protection Mechanisms for Online Freelancers	14
Recommendations to Uphold Freelancers' Rights in the Philippines	15
A. Short-term Recommendations	15
B. Medium-term Recommendations	16
C. Long-term Recommendations	17
Conclusion	17

# Introduction

Freelancing work is booming in the Philippines. The 2020 Global Gig Economy Index by Payoneer ranks the Philippines as the top 1 fastest-growing freelancing country. The Philippines attained this spot after a 208% growth in freelancing revenue. A study conducted by Seifried et al. (2020) also ranks the Philippines in the third spot globally in terms of freelance workers market size. The Philippines occupies the top spot next to the United States of America (first spot) and India (second spot), both countries with larger populations relative to the Philippines. The demand for freelance work mainly comes from the Global North (Berg et al., 2018; Graham et al., 2014).

Online working presents a great opportunity for Filipinos as another option to make a living. For one, digital labor platforms are lauded in the country's large informal economy as they promise to facilitate employment for marginalized sectors (Fairwork, 2022). Although the concrete numbers on the earnings of Filipino freelancers cannot be determined, the earnings are projected to be significant, especially for workers needing extra income (see Serafica & Oren, 2022). Nevertheless, the Philippines must be proactive in dealing with concerns related to freelancing. As the world increasingly becomes digitalized, other countries are catching up with providing opportunities for online work, too. Serafica & Oren (2022) share that the online market is becoming more and more competitive as ASEAN neighbors with better internet also participate more in online work.

Freelance workers are subsumed under the informal economy in the country. The informal sector makes up a significant portion of the Philippine labor force. In 2018, the number stood at 15 million for workers in vulnerable employment relationships. Because freelance workers operate under the informal economy and are not yet protected by any Philippine legislation, they are the most vulnerable in terms of economic shocks and crises. As an illustration, the COVID-19 pandemic has disproportionately affected workers in the informal economy (Fairwork, 2022) who did not have the benefits to weather the pandemic.

## Freelance Work in the Philippines

This document uses freelance as an umbrella category for a wide set of workers encompassing creative workers, online workers, and platform workers. The common characteristic of these types of work is that they are usually engaged in the short-term and on an output or project basis absent the usual features and protections of regular employment.

The Philippines has instituted various initiatives to promote online freelancing. One of them is the Rural Impact Sourcing Initiative, which promoted online work as a solution to unemployment and underemployment, especially in rural areas (Lavilles & Sison, 2016). Although freelance work is now a reality for many Filipino employees, as well as promoted by the Philippine government through pronouncements and small-scale interventions, there persists a data gap on this labor force. For one, reliable statistical data on the number of freelance workers in the Philippines is non-existent (see Fairwork, 2022). It is not surprising to have a lack of definite statistical numbers on freelancers given that freelancing usually occurs in the informal economy. Nevertheless, different studies provide an estimate of the demographics of freelancers in the Philippines. The Philippine Freelance Market Report 2022 Report estimates that 33% of freelancers are from Gen Z, 22% are millennials, and 28% are from Gen X. Middle to lower-income freelancers mostly reside in Luzon and the National Capital Region.

Filipino platform workers are engaged through intermediary sites such as Freelancer.com, Guru, Onlinejobs.ph, Upwork, and Sama-Source (Soriano & Cabañes, 2019; Beerepoot & Oprins, 2022). Payoneer (2022) identifies Facebook as the main source of jobs for Filipino freelancers, with Instagram trailing second. Referrals by friends also make up a main source of a freelancing gig. Furthermore, these social media platforms provide an avenue where workers can come together to share their struggles, give pieces of advice to each other, acquire emotional support, and provide inspiration to keep pursuing online freelance work (see Soriano & Cabañes, 2020).

The presence of an English-conversant and service-oriented workforce cements the Philippines as a top beneficiary of tradeable global services (Bereepoot & Oprins, 2022). The rise of freelance work in the Philippines is driven by multiple factors that depend on the context of the individual. Caboverde & Flaminiano (2022) divide these factors into two: necessity-driven and opportunity-driven. While many freelancers choose the gig economy because of the need for higher pay or extra income, others pursue the gig economy to have more freedom to pursue their passion and maintain a work-life balance. Specific reasons for engaging in freelance work in the Philippines are as follows.

Flexibility (Bereepoot & Oprins, 2022; Caboverde & Flaminiano, 2022; Serafica & Oren, 2022; Tacado, 2020; Soriano & Cabañes, 2019). Flexibility forms one of the main reasons that online freelancers pursue the gig economy despite the risks that the gig economy presents. Flexibility here refers to both spatial and temporal flexibility. In terms of temporal flexibility, the increasing demand for better work-life balance drives the freelance work industry (ILS, 2020). The promise of better control over one's time and getting out of the 9-5 schedule is also appealing for freelancers. In terms of spatial flexibility, meanwhile, Filipinos cite the choice to work from home as a top reason for pursuing freelance work (see Soriano & Cabañes, 2019). This is especially in consideration of the worsening traffic in the Philippines that takes up much of workers' hours.

Fast turn-around of work (Tacadao, 2020). Freelance work can facilitate the quick matching of clients and workers, most notably by mediating companies who resell freelance labor. The demand for work is expedited, which means that freelance workers get to finish a job in a limited time. While this may sound problematic at face value, freelance workers view this as a better opportunity to acquire more work, and therefore, get paid for more outputs they churn out.

Potential for the marginalized sector to be included as the economy develops (Bereepoot & Oprins, 2022; Tacadao, 2020; Soriano & Cabañes, 2019). Workers who are disadvantaged in the traditional labor standards can now compete for jobs in the digital labor market. Women stand to benefit from the development of alternative working arrangements. Online work offers the flexibility that enables women to manage their assigned and socially constructed responsibility of carework and housework (Picot & Spath, 2020). With the reduction of physical barriers to work such as travel time, inflexibility of working schedules, and challenges in accessibility, remote work is able to provide opportunities for greater inclusion of historically marginalized groups (Orr and Savage, 2021).

Greater freedom to pursue passion and upward career development (Bereepoot & Oprins, 2022; Tudy, 2021; Soriano & Cabañes, 2019). This is especially applicable to creative workers, who would rather prefer doing jobs aligned with their talents and interests. Aside from this, greater freedom to choose which kinds of work and clients they engage with are also appealing to people who chose to do freelancing. Such pursuance of passion and career development is also applicable to platform workers who see the distinct challenges of their freelancing jobs as opportunities to improve their work (Soriano & Cabañes, 2020).

Higher salaries, especially for online freelancers doing specialized tasks (Soriano & Cabañes, 2020). The Philippines has one of the highest-earning freelance sectors in the world (Graham et al. 2017). Online work allows Filipinos to earn dollars and provides them entry into the global workplace. For all these, online freelance work provides an opportunity for Filipinos to earn more without having to leave the country.

Aside from the individual motivations to engage in freelance work, there are also structural drivers of freelance work in the Philippines.

The Philippine government's branding of Filipinos as industrious and service-oriented (Soriano & Cabañes, 2019). The Philippines has actively promoted Filipinos as a source of cheap labor worldwide. This has contributed to the normalization of labor exploitation among workers who are socialized that exporting their labor is the natural order of things. Much as the government has promoted the phenomenon of Overseas Filipino Workers (OFW) that rakes in huge remittances aiding the country's GDP, the government is also harnessing the gains in promoting online work. This leads Soriano & Cabanes (2019) to label online freelancers as the new OFWs, or Online Freelance Workers.

The business process outsourcing (BPO) culture in the Philippines (Beerepoot & Oprins, 2022 Soriano & Cabañes, 2019). According to the IT and Business Process Association of the Philippines (IBPAP), the staff count for BPO workers in the Philippines has risen to 1.57 million workers in 2023 (Venzon, 2023). The growth in the BPO sector is a function of the increasing labor outsourcing where non-core activities are delegated to specialists in other parts of the world (Beerepoot & Oprins, 2022). The skills needed in the BPO sector also mirror those that are needed in online freelancing work, such as English proficiency, entrepreneurial spirit, disposition for service, and digital literacy. Because the delegation of specialized tasks to offshore workers is also a feature of online freelancing, the discussion of BPO outsourcing and online freelancing cannot be separated. In fact, the Philippine government considers online freelance work as complementary to BPO work (Soriano & Cabañes, 2019).

Prevailing norms of labor insecurity and informality (Fairwork, 2022; Soriano & Cabanes, 2020; Soriano & Cabañes, 2019). The Philippines has a huge population of English-speaking writers that are unemployed and underemployed, and who are looking to find work in both BPO and online freelancing. Statistics from the Philippine Labor Force Survey show a 5.8% unemployment rate which roughly translates to 2.87 million Filipinos. Meanwhile, around 7.42 million Filipinos are underemployed and seek multiple insecure jobs or additional work to supplement their income. Workers thus turn to freelancing because of the need to augment one's income and get out of being unemployed or underemployed. Out of all the drivers of freelancing work, this particular factor reflects a necessity-driven reason.

Difficult work conditions from previous jobs (Soriano & Cabañes, 2019). Online freelancers are able to leave difficult jobs that did not provide them with enough benefits in the first place. While online freelancing has the risks of precarity, labor exploitation, and insecurity that make their job difficult, online freelancers now have more freedom to leave their freelance work, or to mix and match different gig works, should they wish so. The choice to leave their work also applies to the BPO sector in the Philippines, where cramped cubicles, long hours of work, high levels of stress, lack of professional development, sleep deprivation, and difficulty commuting force workers to look for alternative jobs (Soriano & Cabañes, 2020; Errighi et al., 2016).

# Common Concerns of Freelancing in the Philippines

Bayudan-Dacuycuy & Baje (2021), focusing on platform workers as a subset of freelance workers, identify the general issues of platform work as the lack of provision of social protection, social dialogues, and other rights that guarantee an employee's decent work. Aside from the general challenges of freelance work, freelancing also engenders specific challenges for marginalized sectors. For example, while women stand to benefit from alternative working arrangements, they also face a heavier double burden because their unpaid work at home does not decrease even when they are engaged in online paid work (Picot & Spath, 2020). In other contexts and instances, the issues of social exclusion, bias, usability, and the digital divide may produce a further bias toward full integration for remote workers. This is especially applicable to elderly workers, people with low socioeconomic status, and those similarly situated (Du, Xie, & Waycott, 2020).

The specific and common concerns regarding freelance work in the Philippines are outlined below.

Freelancers lack social benefits (Fairwork, 2022; Serafica & Oren, 2022). This especially hurts freelancers who are raising families (Payoneer, 2022). Platforms, for one, continue to classify their workers as contractors to skirt the responsibility of providing benefits and social security to employees (Caboverde and Flaminiano, 2022). This phenomenon is increasingly being dubbed the 'uberization' of the economy (Ro, 2022).

Lack of security of tenure (Caboverde and Flaminiano, 2022). Companies can easily retrench workers, even without providing a reason for doing so, owing to the contractual nature of the work undertaken by freelance workers. Their periods and conditions of employment are dependent on their agreement with those engaging them.

Lack of company-sponsored benefits (Fairwork, 2022; Serafica & Oren, 2022). Under Philippine labor law, payment or provision of benefits that have ripened into company practice could no longer be unilaterally withdrawn from being enjoyed by regular employees. Many freelancers are not considered employed because they stand outside the traditional bounds of employment, and therefore do not enjoy these company-sponsored benefits.

Lack of insurance such as health and life insurance (Fairwork, 2022; Serafica & Oren, 2022). This especially hurts platform workers like delivery riders who are at risk of road accidents and other work-related injuries (Fairwork, 2022). These work-specific risks entail the need for particular occupational hazard protection in the form of insurance in case of an accident or even death.

Difficulty filing taxes (Serafica & Oren, 2022). According to Philippine Law, taxpayers in the Philippines include online workers regardless of where they earn their revenue. Freelancers can then be considered individual or non-individual taxpayers. They are individual taxpayers when they are self-employed, compensation-earners, or mixed-income earners. Meanwhile, they are non-individual taxpayers when they are under a traditional employment system. Even the Bureau of Internal Revenue (BIR) can give confusing advice to freelancers regarding their tax classification (see Serafica & Oren, 2022).

Difficulty in organizing as a collective to demand a better working environment (Fairwork, 2022). Because freelance workers are not regularized employees, the demands they can make are limited. It is crucial to point out that because freelancers are not regular employees, they can easily be removed



from their position the moment they speak up. Freelance workers also do not have the advantage of having a certified bargaining agent to collectively fight for better conditions of work and remuneration on their behalf, unlike in traditional workplaces.

Hyper-competitive nature of freelance work (Bereepoot & Oprins, 2022; Fairwork, 2022; Soriano & Cabañes, 2020; Soriano & Cabañes, 2019). Freelancers have to compete against each other to land jobs in the market. This pushes online freelancers to build their own portfolios and reputations (Lavilles & Sison, 2016). In the case of platform workers, this hyper-competitive workplace means getting ranked based on customer ratings and getting company privileges based on customer ratings. There is thus a greater tendency for burnout or work-related stress, owing to the hyper-competitive nature of remote work where everything is output-driven. The competition also applies to the wages that freelancers can ask for. Because of the high supply of freelancers, freelancers compete on who can quote the lowest prices with the same quality of work. Soriano & Cabañes (2020) call this phenomenon self-exploitation. Meanwhile, Bereepoot & Oprins (2022) refer to this as a winner-take-all phenomenon.

Personal space and workspace are blending into each other (Bereepoot & Oprins, 2022; Soriano & Cabañes, 2019; Lavilles & Sison, 2016). This presents an irony: whereas freelancers believe that greater flexibility in work affords them work-life balance, online freelancing also has the capacity to colonize their personal space and time. Because freelancers conduct their work online and at home, their personal and private lives mix with their public and professional life. From the demand side, the client may even call the freelancer at any time of the day irrespective of the freelancers' working hours. This is only exacerbated by the fact of time difference where the freelancer is expected to answer the client's requests even outside the Philippines' business hours. Gregg (2014) refers to this phenomenon as 'presence bleed'.

Feeling of isolation (Bereepoot & Oprins, 2022; Payoneer, 2022). This sentiment was prevalent during the COVID-19 pandemic. The isolated nature of remote work tends to produce disengagement, low job satisfaction, and reduced well-being of workers (Van Zoonen & Sivunen, 2022). Unlike traditional workplace settings, remote work poses a challenge to building a workplace culture where there is trust, collaboration, and knowledge sharing across workers (Arunprasad et al., 2022). Crucially, isolated work environments also contribute to workers' feelings of alienation from their co-workers and clients.

Infrastructure problems, especially concerning internet connectivity (Lavilles & Sison, 2016). The weak digital inclusion in the Philippines manifests in the 2022 Inclusive Internet Index where the country ranked 53rd out of 100 surveyed countries. Specifically, the country ranked 67th in terms of readiness to access the Internet; 58th in terms of affordability; and 49th in terms of availability of infrastructure. The Department of Information and Communications Technology is continuously implementing the Free Wi-Fi for All program that aims to bridge the digital divide and aid Filipinos in education and employment. To this end, though, the implementation of the Free Wi-Fi for All remains slow and cannot provide enough access points for online workers to enjoy free connectivity.

All the above-mentioned working conditions lead scholars to label online freelancing in the Philippines as digital sweatshops (see Soriano & Cabañes, 2019).

# Protecting the Rights of Freelance Workers in the Philippines

Freelance workers are protected in international instruments and treaties where the Philippines is a signatory. The Philippines is a state party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) which guarantees the right to work and its favorable conditions. Moreover, the 8th goal in the United Nations Sustainable Development Goals pertains to the promotion of “sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”. Decent refers to “work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration” (United Nations, 2020, p. 2). In particular, freelancing work relates to SDG 8 target 8.8 to “protect labor rights and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants, and those in precarious employment”.

Despite the Philippines being a signatory to international instruments guaranteeing decent work, there is currently no domestic legislation that comprehensively governs the work conditions of digital platforms, specifically those that relate to labor relations, work conditions, and social dialogues, to name a few (Tacadao, 2020). This is a huge gap that leaves freelancers vulnerable to unfair labor practices. Alarming, this gap is only projected to increase as more Filipinos turn to freelancing in a policy environment that cannot keep up.

The Philippines has relied on the supply side more than the demand side to protect the workers so far. In May 2021, the country has legislated the Labor Education Act (RA 11551) that mandates all public and private higher educational institutions, as well as technical vocational institutions that offer one to three years of diploma or non-degree certificates, to offer a labor education elective course. The labor course aims to provide students with soft skills that included negotiation skills, redressing grievances, and interpersonal skills. More importantly, labor education provides awareness to the current and future labor force regarding their rights.

Specific to freelancers in the creative industry, such as those directly or indirectly involved in the “creation, production and manufacturing, performance, broadcasting, communication and exhibition, or distribution and sale of works and other subject matter,” creatives are recognized under the Philippine Creative Industries Development Act, which lapsed into law in July 2022. The House of Representatives version of the bill that became law acknowledges that Filipino artists “had to achieve with little to no reinforcement from the government”. While the law provides support for the creative industries, its full implementation and overall effect on freelancers working in creative industries has yet to be seen.

# Policy environment 1: Gaps in Philippine Legislation

The most glaring gap in the present legal framework is that no form of legally mandated labor protection or labor benefits exists for freelancers. Consequently, despite the perceived benefits of freelancing (e.g., flexibility and higher take-home pay), nothing currently protects them from possible abuse by unscrupulous employers or entities. At present, freelancers are outside the ambit of Philippine law.

The Labor Code of the Philippines is the Philippines' governing law on labor standards, employment practices, and labor relations. It prescribes the rules for hiring and termination of private employees; the conditions of work, including maximum work hours and overtime; employee benefits, such as holiday pay, thirteenth-month pay, and retirement pay; and the guidelines in the organization and membership in labor unions and collective bargaining. Article 6 of the Labor Code specifies that all rights and benefits granted to workers therein shall, except as otherwise provided, apply to all workers, whether agricultural or non-agricultural. Article 13 (a) defines "worker" as any member of the labor force, whether employed or unemployed. When it comes to employee benefits, Section 82, Title I, Book Three (Conditions of Employment) of the Labor Code provides for a specific enumeration of the classes of workers that are entitled, and conversely, not entitled, to the benefits (Working Conditions and Rest Periods, including entitlements to holidays, service incentive leaves and service charges) granted under the said portion of the Labor Code.

To determine whether an individual is a worker entitled to the benefits and protection of the Labor Code or an independent contractor, the Supreme Court has, time and again, resorted to the use of the four-fold test and control test. The court has time and again discussed the elements of an employer-employee relationship (otherwise called the four-fold test), namely: (1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power to control the employee's conduct. Of all four, the power to control is the most definitive element of an employer-employee relationship. Absent the power to control the employees with respect to the means and methods by which their work was to be accomplished, no employment relationship exists.

While it may be argued that gig workers or freelancers are covered under the broadly defined "workers," and they are not explicitly excluded from the enumeration under Article 82, it is important to emphasize that there is ambiguity in terms of applicability to freelance work. Most, if not all, gig workers are engaged as "independent contractors." As a legal consequence, freelancers are beyond the ambit and protection of the Labor Code, unlike traditional employees.

To be considered a legitimate contractor under Philippine law, the freelancers must have a "distinct and independent business uncontrolled by the principal and compliant with all the rights of benefits for the employees."<sup>1</sup> One type of independent contractor under the law is those individuals "who possess unique skills and talents which set them apart from ordinary employees and whose means and methods of work are free from the control of the employer."<sup>2</sup> In such cases, there is a bilateral relationship between the independent contractor directly engaged by the principal. Therefore, their contracts are governed by contract law under the Civil Code of the Philippines. As independent contractors, the relationship between the freelancer and their principal or the "hiring" entity is

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<sup>1</sup> Ditiangkin et al. vs. Lazada E-Services Philippines, G.R. No. 246892, September 21, 2022.

<sup>2</sup> Ibid.

contractual. In this regard, the parties are free to agree on the terms and conditions of their contract as they deem fit, subject to the condition that they do not contravene the law, morals, good customs, public order, or public policy. Owing to this freedom to stipulate the terms of the agreement, it must be noted further that the parties may even decide to have foreign law as the contract's governing law. This presents further difficulties in claiming benefits or disputing conditions of work for freelance workers, who may have challenges gaining access to a foreign tribunal or forum.

While it is true that the Labor Code, in Articles 106-109, provides rules on contracting or subcontracting, these provisions relate more to the rights of the contractor's or subcontractor's employees and not to freelancers as independent contractors per se. In fact, it is worth noting that the Labor Code allows contracting or subcontracting but wants to ensure that despite the contractual relationship between the principal and the contractor, there still exists protections for the employees of the latter, such as in instances where the contractor fails to pay the wages of their employees.

Presently, the House of Representatives passed on the third and final reading House Bill (HB) 6718, otherwise known as the "Freelance Workers Protection Act," which mandates, among others, the institutionalization of benefits such as night differential and hazard pay for freelancers whenever applicable. In a Press Statement released by the House of Representatives, Representative Martin Romualdez, acknowledging the absence of a law protecting freelancers, said, "As the digital economy expands, the number of Filipino freelance workers also increases. And if no laws are in place to protect our gig economy freelancers or to establish a formal grievance system to enforce their rights, they will be susceptible to all kinds of abuse." With the transformation of the global economy and advancement in technologies surrounding work, it is urgent and crucial that innovations in policy and legislation be introduced for the protection of workers, regardless of the nature of their work.

## Policy Environment 2: Policies and Proposed Laws

Currently, the workers who do not qualify under a traditional employee-employer model are considered freelancers, independent contractors, or service delivery partners (Fairwork, 2020). This disqualifies them from being entitled to benefits. The Philippine Congress, nevertheless, has not remained blind to the woes of freelancers. The consolidated bills that are being filed in Congress to protect freelancers are as follows. It is worth noting that none of the proposed bills are included in the Philippine Development Plan 2023-2028 of the Ferdinand Marcos, Jr administration.

- **Freelance Workers Protection Act (House Bill 6718)**
  - This Act protects informal workers who are involved in freelance work, online platform work, and the gig economy. The Act recognizes the value of freelance workers to the Philippine economy and society and their entitlement to the many rights and social protection benefits accorded to other kinds of employees. The Act ensures that freelance workers have various statutorily institutionalized rights and benefits, ranging from social benefits and upskilling to the filing of taxes and legal redress for grievances, among others.
- 
- **Philippine Digital Workforce Competitiveness Act**
  - This Act creates an inter-agency council to ensure that the digital workforce is competitive. The bill includes providing skills mapping and digital skills training, as well as offer scholarships, incentives, and a web portal for easy access to digital training programs.
- **National Digital Careers Act**
  - This Act aims to develop digital careers in the country through digital skills training and other modes of support including grants, scholarships, and subsidies for equipment of facilities. The act shall also set minimum requirements to be qualified as a digital worker, including a simpler process for tax registration and filing. The existing bills seek to provide a legal framework that is ready for the rise of digital careers in the Philippines.
- **National Digital Transformation Act (Senate Bill 1470; 04 May 2020)**
  - This Act proposes the creation of a Digital Competence Framework for Citizen that will serve as a tool to improve the digital competence of Filipinos and guide the policy formulation of digital competence-building. This includes the provision of national digital skills strategy so that everyone can have internet access and develop ICT skills and knowledge. It likewise institutionalizes the creation of a National Digital Transformation Strategy that will identify priorities (e.g., digital inclusion, infrastructure, and skills) to afford Filipinos opportunities to understand ICT and develop skills and the ability to apply ICT in their work.
- 
- **PhilJobs Act (Senate Bill 1847; 23 September 2020)**
  - This Act creates the National Unemployment Insurance Program, which seeks to provide a mechanism of protection from the risks of income loss for all kinds of workers and assist workers who are experiencing an episode of unemployment. The bill also seeks to establish the Philippine Job Insurance Corporation (PhilJobs) that will administer the National Unemployment Insurance Program and ensure the viability

and effectiveness of the said Program. The expansion of unemployment insurance is part of the Government's legislative agenda in the Philippine Development Plan 2023-2028 (Subchapter 3.2).

- **Magna Carta for Workers in the Informal Economy (House Bill 347; 30 June 2022)**
  - This Act aims to provide informal workers (including those who own and operate economic units; home-based workers or contributing family workers; employees holding informal jobs in or for formal enterprises, or for economic units in the informal economy; workers in unrecognized or unregulated employment relationships; volunteer, contractual, job orders, and other vulnerable workers in government instrumentalities; and agricultural workers or fisherfolk ) with the same type of benefits and social protection as those in the formal economy, especially social insurance programs, consistent with the Philippine Constitution and the Labor Code of the Philippines, as amended.
- **Online Pinoy Creative Market Act**
  - This Act mandates the Department of Trade and Industry to create a free online market with free internet access wherein creatives can create, post, and stream content. The Philippine Development Plan 2023-2028 recognizes the need to promote the Malikhaing Pinoy Creative Market Acceleration Program, which is a handholding program and support for trade and investment promotion to increase the value chain participation of creative industries (Chapter 7).

Amid the existing labor policies, a hierarchy among freelancers is observable. The Department of Labor and Employment, for one, released Labor Advisory No. 14-21 which states that platform workers, specifically those working in food delivery and courier activities, can be considered employees or independent contractors. They are entitled to work safeguards as independent employees, although still limited as compared to traditional employees (Fairwork, 2020). These include guaranteed earnings of the minimum wage, occupational safety, and health standards, and access to social security benefits. Such labor advisory is only available for platform workers, which only form part of the freelancing population. Aside from platform workers, creative workers have also been addressed by Congress. Although the impact of the Philippine Creative Industries Development Act is yet to be seen, having a space in Philippine law is a start to greater employee protection. But the veil of protection should be cast comprehensively on the freelancing population.

## **Implications of Lack of Protection Mechanisms for Online Freelancers**

Because Philippine laws have yet to keep up with the boom in freelance workers as part of the workforce, gaps continue to exist in terms of their integration into the formal economy. This has huge implications on two fronts: first, the Philippines is not able to fully reap the benefits of the growing freelancing labor force in terms of collecting revenues, and second, freelance workers continue to be vulnerable as compared to those in regular employment.

On the matter of taxation, the Bureau of Internal Revenue has come out with Revenue Memorandum 23-2018 implementing the Tax Reform for Acceleration and Inclusion (TRAIN) Law on the guidelines and policies for the taxation of self-employed individuals, including mixed-income earners. While these guidelines cover freelancers in principle, many freelancers find filing taxes on their own difficult or

confusing, owing to the difficulty and lack of streamlining in the relevant processes. Unlike employed individuals whose taxes are automatically deducted or withheld from their salaries, freelancers have to navigate the complicated system of filing income taxes on their own. This may result in freelancers not being able to file and pay the correct taxes, thereby depriving the Philippine government of additional income from this growing sector.

On the other hand, the gaps in labor legislation with respect to freelancers expose them to vulnerabilities and risks that are usually covered by traditional labor laws. Independent contracting in the Philippines remains an often-litigated issue before the labor tribunals and the courts, with the issue usually surrounding the presence of an employer-employee relationship for the workers to be able to avail of protections and benefits. This unduly places the burden on freelance workers who must go to these lengths just to be able to receive their benefits. A litigious climate surrounding freelance work also hurts the industry and institutions in the long term, as it might only result in a multiplicity of lawsuits clogging the court dockets and discouraging workers from pursuing freelancing opportunities.

To this end, Congress must come up with relevant updating of laws, and the Department of Labor and Employment (DOLE) with supplementary issuances, in order to afford full protection to freelance workers. On its part, the Office of the President should certify pending bills on freelance work as urgent to address the issues of workers to show its commitment to fostering this growing industry.

## Recommendations to Uphold Freelancers' Rights in the Philippines

The freelance workers sector is huge. Policies that are meant to protect freelance workers must, just like freelance work, be flexible and adaptable. The Department of Labor and Employment must work towards creating detailed labor advisories for all classes of freelancers and clarify the benefits that they should minimally enjoy from those engaging in their work. Such advisories can also serve as guidance for seeking recourse and the resolution of disputes surrounding freelance workers.

Government policies should be specific enough to identify needed changes but general enough to be applicable to various contexts of freelance work. The recommendations are divided into the short, medium, and long term.

### A. Short-term Recommendations

Prioritize bills that protect freelancers. The proposed Freelance Workers Act and the Magna Carta for Workers in the Informal Economy, alongside the bills mentioned above, are much-needed pieces of legislation that need to be expeditiously passed. Current policies have a huge gap that needs to be prioritized if the Philippines wants to maximize its labor potential and capital.

Provide training for freelancers that discuss topics such as labor rights, better job-matching, and how to negotiate their salary. This recommendation is already being conducted through the Labor Education Act. However, the Labor Education Act only caters to those enrolled in higher education and technical vocational institutions. These kinds of training events should also be available to those outside educational institutions.

Ensure that contracts are present and that they are easy to understand. These contracts should be



comprehensive and presented in a language that the worker can understand and provide stipulations that are not difficult or even impossible to comply with for the worker and those engaging them.

Uphold the minimum salary for informal workers. Specifically, the government can suggest a minimum salary for each type of freelance work, which will address self-exploitation in a hyper-competitive freelancing sector. Fairwork (2020) notes that although platform workers earned above the minimum wage, the take-home pay gravely diminishes when their work-related costs are factored in. Furthermore, even when they met the minimum wage threshold, they are often only able to do so by working more than the normal working hours per day. Policies must therefore consider fixed capital costs borne by the employees as the policies determine and push for minimum payment for freelance workers.

Enable women, people with disabilities, and other marginalized groups to participate in freelance work. In order to fully reap the benefits of freelance work, marginalized sectors who are often sidelined in traditional employment need to be given opportunities to try their hands at online and freelance work. The government, however, should not take this complacently. The government should also institute gender mainstreaming for workers, especially companies that are known to engage platform workers.

## B. Medium-term Recommendations

Simplify tax filing of freelancers. It is currently difficult to classify freelance workers (Serafica and Oren, 2022). While the National Internal Revenue Code, as amended, has guidelines for purely self-employed taxpayers that may cover some freelancers, there must be greater awareness for freelance workers towards working on their tax compliance under Philippine law. This includes requirements for registration and filing of income taxes.

Institute free public Wi-Fi in the country. The internet is crucial to online work. The Philippines already has the Free Wifi for All program led by the Department of Information and Communications Technology. However, this is still not completely rolled out. While the Free Wi-Fi for All is not intended for freelancers' use, its successful rollout will nevertheless bode well for freelancers engaged in online work.

Freelancers engaged in hazardous occupations should be entitled to free accident insurance. This is especially applicable to platform workers, who are at risk of incurring injuries in their line of work. These may include compliance with minimum occupation and safety standards, provision of personal protective equipment, and attendance in pieces of training or seminars on occupational safety.



### C. Long-term Recommendations

Ensure facilitation and coverage under SSS, PhilHealth, and PAG-IBIG. Those engaging freelance workers must endeavor that such workers are covered and regularly contributing to SSS, PhilHealth, and PAG-IBIG. Contracts governing freelance workers must include in their stipulations a provision for registration and coverage.

Ensure that the contributions to SSS and GSIS are portable enough especially between workers switching from the private to the public sector, or vice versa. Currently, Republic Act No. 11199, or the Social Security Act of 2018 states that coverage in the Social Security System (SSS) shall be compulsory for self-employed persons, as may be determined by the Social Security Commission. The contributions to the SSS of a self-employed member are determined by the schedule provided in the SSS Act. Self-employed members have the duty to remit their monthly contributions on a quarterly basis. The Portability Law only currently provides for a limited scheme of totalizing benefits for those who transfer from one system of social services to another. Bayudan-Dacuycut et al., (2020) even recommend that this portability be applied to workers moving from domestic to overseas work, and vice versa.

Create a working environment that ensures the well-being of freelance workers. Platforms or entities engaging freelance workers must foster a working environment that takes into account the challenges to the mental wellness of workers in the long term. Overworking and taking on too many tasks should not be incentivized or made the norm; platforms and contractors must endeavor to consider the freelance worker's personal boundaries in terms of time and capacity to produce outputs.

## Conclusion

Freelance work has been on a steady rise in the Philippines, which has only been accelerated by the COVID-19 pandemic. Because freelancing is increasingly becoming a permanent phenomenon in the country, it is therefore important to understand it and institute protection mechanisms for freelance workers. The Philippines' guarantee for the protection of the labor sector has been constitutionally and legally recognized for the longest time. With the innovations in work introduced by newer technologies and the global restructuring of labor in recent times, policies must keep up with the changing demands and needs of workers.

Freelance workers have greatly contributed to the Philippine economy in recent years and even helped keep it afloat amidst the slowdown brought about by the global pandemic. The opportunity for freelance work also opens up possibilities for traditionally marginalized groups, allowing them to participate as productive members of an industry where they would usually be excluded. All these point to the necessity to ensure that the risks and costs of freelance work do not trump their projected benefits. It is now within the Philippine government's initiatives to find policies that work.

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