I. Introduction

Labor Relations
- Refers to the interactions between employer and employees or their representatives and the mechanism by which the standards and other terms and conditions of employment are negotiated, adjusted, and enforced. (Azucena, 2016)
- The term denotes all aspects of Er-Ee relationship which involve concerted action on the part of the workers. It is usually associated with all the ramifications of unionism, collective bargaining and negotiations, and concerted activities such as strike, picket, mass leave, etc. (Poquiz, 2018)

Constitutional provisions in relation to Labor Relations
- Sec. 3, Art. XIII guarantees to all workers, among others, their right to: (1) Self-organization; (2) Peaceful concerted activities including the right to strike in accordance with law; and (3) Participate in policy-decision making processes affecting their rights and benefits as may be provided by law.

Construction in Favor of Labor
- All doubts in the implementation and interpretation of the provisions of the Labor Code, including its implementing rules and regulations, shall be resolved in favor of labor. (Art. 4, Labor Code)

A. Right to Self-Organization
- Refers to the right of workers and employees to form, join, or assist unions, organizations, or associations for purposes of collective bargaining and/or for mutual aid and protection, including the right to engage in peaceful concerted activities and participate in policy-decision making processes affecting their rights and benefits.

- Extent of the Right to Self-Organization
  It includes at least two (2) rights: (1) The right to form, join, or assist labor organizations; and (2) The right to engage in lawful concerted activities. (Art. 257, LC)

- Purpose of Exercise of Right to Self-Organization: (1) Collective bargaining; and (2) Mutual aid and protection. (Art. 257, LC)

1. Persons who can Exercise their Right to Self-Organization

   Who may unionize for purposes of collective bargaining?
   - All persons employed in commercial, industrial, and agricultural enterprises and in religious, charitable, medical, or educational institutions whether operating for profit or not, shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of collective bargaining. (Art. 253, LC)

   Who may form a labor organization for purposes of mutual aid and protection?
   - All persons employed in commercial, industrial and agricultural enterprises and in religious, charitable,

medical, or educational institutions, whether operating for profit or not;

- Ambulant, intermittent, and itinerant workers, self-employed people, rural workers and those without any definite employers may form labor organizations for their mutual aid and protection. (Art. 253, LC)
- Aliens working in the country with valid permits issued by the DOLE may exercise the right to self-organization and join or assist labor organizations of their own choosing for purposes of collective bargaining: Provided, that said aliens are nationals of a country which grants the same or similar rights to Filipino workers. (Principle of Reciprocity)
- Employees of government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law.

When can an employee join a labor organization? Any employee, whether employed for a definite period or not, shall, beginning on his first day of service, be considered as an employee for purposes of membership in any labor union. *(Art. 292 (c), LC)*

EMPLOYEES RESTRICTED TO FORM, JOIN, OR ASSIST LABOR ORGANIZATIONS

a. Managerial Employees - A managerial employee is one who is vested with powers or prerogatives to lay down and execute management policies and/or to hire, transfer, suspend, lay off, recall, discharge, assign, or discipline employees. *(Art. 219(m), LC)*
b. Supervisory Employees - Supervisory employees are those who, in the interest of the employer, effectively recommend such managerial actions if the exercise of such authority is not merely routinary or clerical in nature but requires the use of independent judgment. *(Art. 219(m), LC)*
c. Confidential Employees - acts in a confidential capacity to, or has access to confidential matters of, persons who exercise managerial functions in the field of labor relations. *(Philips Industrial Development v. NLRC, G.R. No. 88957, 25 June 1992)*
d. Employees of International Organizations – <u>General Rule</u>**:** International organizations are immune from Philippine jurisdiction. (i.e., ICMC, IRRI, ADB) Thus, a certification election cannot be conducted in an international organization which has been granted immunity from local jurisdiction. *(ICMC v. Hon. Pura Calleja, G.R. No. 89331, 28 Sept. 1990)* <u>Exception:</u> However, the international organization has the discretion to waive its immunity. Without such express waiver, the NLRC or its labor arbiters have no jurisdiction over international organizations, even in

cases of alleged illegal dismissal of any of its employees. *(Callado v. IRRI, G.R. No. 106483, 22 May 1995)*

e. Employee-Members of the Cooperative - An employee of a cooperative who is also a member and co-owner thereof cannot invoke the right to collective bargaining, for an owner cannot bargain with himself or his co-owners. (San Jose Electric Service Cooperative, Inc. v. Ministry of Labor, G.R. No. 77231, 31 May 1989)
f. Religious Objectors - Members of religious sects cannot be compelled or coerced to join labor unions even when said unions have closed-shop agreements with the employers. Free exercise of religious belief is superior to contract rights. In case of conflict, the latter must yield to the former. *(Victoriano v. Elizalde Rope Worker's Union, G.R. No. L-25246, 12 Sept. 1974)*
g. Government Employees - Employees of government corporations established under the Corporation Code shall have the right to organize and to bargain collectively with their respective employers. All other employees in the civil service shall have the right to form associations for purposes not contrary to law. *(Art. 254, LC)*

NON-INTERFERENCE WITH WORKERS' RIGHT TO SELF-ORGANIZATION

- It shall be unlawful for any person to restrain, coerce, discriminate against, or unduly interfere with employees and workers in their exercise of the right to self-organization. Such right shall include the right to form, join, or assist labor organizations for the purpose of collective bargaining through representatives of their own choosing and to engage in lawful concerted activities for the same purpose or for their mutual aid and protection, subject to the provisions of Art. 264 of the Labor Code. (Art. 257, LC)

DETERMINATION OF APPROPRIATE BARGAINING UNIT (ABU)

- Tests to determine the appropriate bargaining unit

1. Commonality or Mutuality of Interest

   Under this doctrine, the employees sought to be represented by the collective bargaining agent must have community or mutuality of interest in terms of employment and working conditions as evidenced by the type of work they perform. This is characterized by similarity of employment status, same duties, and responsibilities and substantially similar compensation and working conditions. *(San Miguel Corp. Employees Union-PTGWO v. Confesor, G.R. No. 111262, 19 Sept. 1996)*

   Factors considered in determining the Substantial or Mutuality Interest Doctrine
   1. Similarity in the scale and manner of determining earnings;
   2. Similarity in employment benefits, hours of work, and other terms and conditions of employment;

3. Similarity in the kinds of work performed;
4. Similarity in the qualifications, skills, and training of Ees;
5. Frequency of contract or interchange among the Ees;
6. Geographical proximity;
7. Continuity and integration of production processes;
8. Common supervision and determination of labor-relations policy;
9. History of CB;
10. Desires of the affected Ees; or 11. Extent of union organization. (*Cox, Bok & Gorman, Labor Law, 1977)*

2. Will of the employees or "Globe Doctrine"

This principle is based on the desires of the employees. In defining the appropriate bargaining unit, the determining factor is the desire of the workers themselves. While the desires of employees with respect to their inclusion in bargaining unit is not controlling, it is a factor which would be taken into consideration in reaching a decision. *(Globe Machine & Stamping Co., 3 NLRB 294, 1937)*

"One-company, One-union" Policy

Two corporations cannot be treated as a single bargaining unit, even if their businesses are related. (*Indophil Textile Mill Workers Union v. VA Calica, G.R. No. 96490, 03 Feb. 1992*)

It is the policy of the BLR to encourage the formation of an employer unit. In other words, one employer enterprise should constitute only one bargaining unit because the more solid the employees are, the stronger their bargaining capacity.

GR: All the rank-and-file Ees with substantially the same interests and who invoke the right to self-organization are part of a single unit so that they can deal with their Er with just one and potent voice. The Ees' bargaining power is strengthened thereby. (*General Rubber and Footwear Corporation v. BLR, et al., G.R. No. 74262, 29 Oct. 1987)*

XPNs:
1. **Supervisory Ees** – allowed to form their own unions apart from the rank-and-file Ees;
2. **Craft Unit** – bargaining unit composed of employees of the company with the same occupation, such as pilots as distinguished from ground personnel;
3. **Plant Unit** – bargaining unit composed of employees in a particular plant of the company, such as the company's Cebu plant as distinguished from its Ilocos plant. The main consideration in a plant unit is geographical, while it is occupational in a craft unit. *(Alcantara, 2008)*

3. Collective Bargaining History Doctrine

This principle puts premium to the prior collective bargaining history and affinity of the employees in determining the appropriate bargaining unit. However, the existence of a prior

collective bargaining history has been held as neither decisive nor conclusive in determination of what constitutes an appropriate bargaining.

4. Employment Status Doctrine

   The determination of the appropriate bargaining unit based on the employment status of the employees is considered as an acceptable mode. *(Chan, 2019)*

EFFECT OF INCLUSION OF EMPLOYEES OUTSIDE OF THE ABU

The inclusion as union members of employees outside the bargaining unit shall not be a ground for the cancellation of the registration of the union. Said employees are automatically deemed removed from the list of membership of said union. (*Art. 256, LC)*