

Contractualization in the Higher Educational Institutions (HEIs) in Cebu

Louiechi Von R. Mendoza
Cebu Normal University

Corresponding Author: Louiechi Von R. Mendoza mendozalv@cnu.edu.ph

ARTICLE INFO

Keywords: Contractualization, Higher Educational Institutions (HEIs), Thematic Analysis, Cebu

Received : 10, May
Revised : 21, June
Accepted: 17, July

©2023 Mendoza: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

This study made use of qualitative design as a method for describing the observance of contractualization in selected Higher Educational Institutions in Cebu. The researcher utilized narratives as well as quantitative data gathered through interviews. Interviews are made with persons directly involved with the practice of contractualization in the administrative and academic offices of the selected Higher Educational Institutions. There are a total of twelve (12) key informants for the study. The key informants are composed of the following: four guest lecturers, four agency-based administrative staff, and four janitorial or maintenance staff. The gathered data is validated by citing related studies and other references.

INTRODUCTION

One of the most significant developments in the field of governance in the past few decades has been the increased demand for a skilled, competent and passionate civil servant. The development of government in terms of size and number of offices devoted to serve the public has increased the demand for labor. The response of the government to deal with the increasing labor demand is contractualization or contracting out of jobs and services. According to Galgano (2003), the varying demand for labor both in the local and national government intensified the so-called "contractualization" which has become a trend nowadays. Based from the study of Bureau of Labor and Employment Statistics (2012), contractualization emerged in the 1980s within the ASEAN region. Contractualization, as commonly observed in Southeast Asia, is also practiced in the Philippines.

In the Philippines, contracting arrangements are common both in the private and in the government. Instead of hiring their own messengers, janitors, security guards and among others, private and government institutions have learned the value of contracting these services to contractors. Truth to be told, contracting out these jobs is more cost-efficient in terms of time and money because these institutions no longer recruit, hire and train new personnel. The observance of contractualization is common in the Philippines especially in highly populated areas where services is much needed and transition is very fast such as in Cebu.

According to Beerepoot (2005), Metro Cebu has established itself as one of the world's major observants for contracting and outsourcing operations. Private and government institutions are entering to contracting and outsourcing of tasks, services and other aspects of the entire operations to take advantage of the cost-efficient and competitive labor. This phenomenon presents both an opportunity and challenge to the labor in Cebu. The Bureau of Labor and Employment Statistics (2012) declared that seven out of ten institutions (private and public) practice contractualization. This suggests that working arrangement such as contracting is a common practice among industries in Cebu.

In Cebu, numerous state universities and private universities are located at the center of the metro. These higher educational institutions in Cebu are flocked with many students because they are the most accessible institutions apart from those in Manila in Luzon. In fact, considerable number of students are coming all the way from the Southern part of the Philippines (Mindanao) and other nearby provinces such as Negros and Bohol. With this, the volume of students in both public and private higher educational institutions in Cebu is massive. To balance it off, these higher educational institutions recently observed contractualization by contracting out its janitorial, maintenance and administrative staff to a third-party service-provider (manpower agency). Moreover, some academic staff who are categorized as guest lecturers serve under certain terms and conditions specified in a contract. The researcher believed that these contractualization practices best describes how the concept is observed in higher educational institutions in Cebu.

Contractualization is practiced in both public and private higher educational institutions in Cebu. It has been observed that productivity and efficiency in varying offices is negatively affected because of its practice of contractualization. Issue on knowledge-transfer, proper transition, turn-over, commitment and even honesty outweighed the advantages of contractualization. These made the respective offices which have contract-based employees (not item or regular ones) less productive at the end of the day. It is common in higher educational institutions in Cebu that contract-based employees resign and left the posts without proper transition. The next person to hold the position needs months to learn and adjust to office work. In addition, since these contract-based employees are not government employees, there is a huge disparity on salary and benefits that they get in comparison to those itemed and regular employees. The disparity on salary and benefits often resulted to less motivation and poor performance in the organization.

Today, contractualization has become a global, regional, national and local trend as it gives temporary job opportunity to few some. However, in the higher education institutions in Cebu, the observance of contractualization negatively affects the overall productivity and efficiency of the delivery of service and convenience of the students. The overall impact of the practice of contractualization in higher educational institution is often overlooked if not obscure. The pros and cons of the observance of contractualization in these institutions are debated and remained unresolved. It is in this light that the researcher endeavors to pursue this study with the purpose of describing the contractualization as practiced in higher educational institutions in Cebu.

METHODOLOGY

This study made use of qualitative design as method in describing the practice of contractualization in selected higher educational institutions in Cebu. For this, the researcher utilized narratives as quantitative data gathered through interviews. Interviews were made with persons directly involved with the practice of contractualization in the selected higher educational institutions system. The key informants of the interview were selected based on the self-made criterion of the researcher. The focus of the researcher is on the practices of selected institutions which objectively describe the observance of contractualization in the higher education. The gathered data were validated by citing related studies and other references. In addition, latest department orders, laws and related case studies concerning contractualization were considered as additional sources of data.

The study was conducted in selected higher educational institutions in Cebu where contractualization is practiced based on the observation of the researcher. Private and public higher educational institutions in Cebu have recently observed contractualization by contracting out its janitorial, maintenance and administrative staff to a third-party service-provider (manpower agency). Moreover, some academic staff who are categorized as guest lecturers serve under certain terms and conditions specified in a contract.

The researcher believed that these contractualization practices best describes how the concept is observed in the higher educational institutions in Cebu.

This study utilized interview guide as primary instrument in gathering narratives from key informants identified by the researcher. For this matter, an interview guide was devised by the researcher based from the problems of the study. The interview guide is composed of fifteen series of questions formulated in such a way that it can satisfy the problems of the study. Other instruments used by the researcher were recorder, camera, pen and paper for the success of data gathering.

The respondents of the study were the key informants identified by the researcher for interview. There was a total of twelve key informants for the study. The key informants were composed of the following: four guest lecturers, four agency-based administrative staff and four janitors or maintenance staff. Each was interviewed using the interview guide by the researcher. Each key informant has pseudonym for confidentiality of identity. Hence, KI-1, KI-2, KI-3 and KI-4 are the guest lecturers; KI-5, KI-6, KI-7 and KI-8 are the agency-based administrative staff and KI-9, KI-10, KI-11, and KI-12 are the janitors or maintenance staff.

Prior to the actual data gathering procedures by the researcher, an interview guide was constructed. The twelve (12) key informants were asked for their available time to conduct the interview. Moreover, the twelve (12) key informants were purposively selected by the researcher based on a self-made criterion. A hard copy of interview guide was provided to the key informants so they may constructively be ready on the questions. The confidentiality of the narratives and its contents was explained by the researcher upon giving the hard copy of the interview guide. The researcher waited for the schedule time and place of the requested interview preferred by each key informant.

On the day of the interview, the researcher asked questions based on the interview guide to the key informant. The researcher recorded all the verbal narratives of the key informants using a recorder, a paper and a pen. After, the researcher transcribed the recorded narratives. The researcher used tabular matrix to comprehensively assemble the narratives on each questions per key respondents. The researcher used pseudonym on the table for confidentiality of identity key informants. On the tabular matrix, KI-1, KI-2, KI-3 and KI-4 are the guest lecturers; KI-5, KI-6, KI-7 and KI-8 are the agency-based administrative staff and KI-9, KI-10, KI-11, and KI-12 are the janitors or maintenance staff. A thematic analysis was then be employed to examine the pattern of similarities on the narratives of key informants as seen on the table. The pattern of similarities on the narratives of the respondents was presented on the succeeding chapter as findings of the study. The researcher was citing assumptions, concepts, findings and data similar to the narratives presented for validity. A thorough analysis on the narratives helped the researcher evaluate the observed practices if they are aligned to all the labor laws and civil service laws in the country concerning contractualization. The researcher then drew possible implication out from the findings of the study. After which, the researcher carefully formulated recommendations and conclusions out from the findings of the study.

RESULTS

A. Theme 1: Contractualization Practices in HEIs in Cebu

Whenever there are extra teaching loads in the department where they belong, the chairman calls and invites them to handle the extra teaching loads at the start of the semester. Normally, a submission of necessary documents to the Human Resources Office such as application letter, copy of latest personal data sheet, medical and psychological test results and clearances precedes the signing of service contract. The entire process of filing of requirements must be done every semester or whenever necessary such as when the clearances has expired (KI-1, 2 & 3).

Whenever we file for leave of absence, we need to ask permission from our manpower agency. (KI-4, & 6).

If there are discrepancy on the computation of our salary, we coordinate to the agency because it is them who processed our pay (KI-4, 5, & 6).

We render a total of nine hours per day. Eight hours of work and one hour lunch break is equal to one day of work. Most often, you do not render an overtime service not unless if it is requested by our boss (KI-4, 5, & 6).

I was hired four years ago and my assignment was to maintain the cleanliness of the floors in the ASAB building before I transferred to our new agency (KI-8).

Before I was placed under a manpower agency, I have been working as janitor in HEIS for three years (KI-10).

I am one of the longest serving janitors here in Higher Educational Institutions. If I am not wrong, I have served the institution for more than five years now then another almost a year under our agency (KI-9).

The basis of our payment is the rate per hour as reflected in our service contract. Our preparation times and our vacant times are not included in the computation of our payment because the institution only pays our actual working hours (KI-1, 2 & 3).

What is stipulated as the minimum wage in the region will become the bases of our payment in a daily basis. Although, labor mandated benefits are provided but whenever we will be sick and will be absent from work, sick leave cannot be filled (KI-4, 5, 6, 7, 8, 9, 10).

“There are trainings, seminars and other activities in the University that we cannot join and cannot be part of because of our employment status (KI-1, 3, 5, 7, 8, 9)”.

Our contract lasts usually for Five (5) months sir (KI-1.)

One semester sir. Until the end of the class. However, this is renewable by the next semester (KI-2).

Until the class ends in a semester. But we can extend depending if there are available teaching load with which we can teach (KI-3).

DISCUSSION

Contractualization Practices in HEIs in Cebu

In Higher Educational Institutions, the practice of contractualization is observed by filing necessary manpower need for teaching, administrative and maintenance staff of the institutions. Contractualization of teaching, administrative and maintenance staff of the institution has been around for quite some time. In fact, it is only recent when the institution decided to put most of its staff in place by hiring them as regular employee of the institution. Despite, contractualization through hiring of contract-based employees and agency-based employees still remains in the HEIs system.

In the recent Higher Educational Institutions practice, contractualization is minimal. In fact, only 8 percent (18 of 220 faculty members) of teaching staff are contractual faculty members. The contractual teaching staff are hired and paid based on a terms and conditions of a service contract. Such service contract terminates at the end of the semester. By the next semester, the teaching staff will be rehired and will be asked to sign another service contract. Key informants narrated how contractualization as a process of repetitive hiring and termination in a semester's basis is done. Key informants explained that:

Whenever there are extra teaching loads in the department where they belong, the chairman calls and invites them to handle the extra teaching loads at the start of the semester. Normally, a submission of necessary documents to the Human Resources Office such as application letter, copy of latest personal data sheet, medical and psychological test results and clearances precedes the signing of service contract. The entire process of filing of requirements must be done every semester or whenever necessary such as when the clearances has expired (KI-1, 2 & 3).

For this matter, the practice of contractualization in Higher Educational Institutions is seen as a band aid solution to lack of permanent instructors to handle all the teaching loads in a semester's basis. However, it is disadvantageous to the end of the contract-based instructors because the requirements that they have submitted to the institution are the same requirements that the regular or permanent employee have submitted yet they do not have the same employment

status and further do not receive the same remuneration as such of the regular or permanent employee.

Furthermore, In Higher Educational Institutions majority of its administrative staff are presently under agency (a manpower agency). In fact, 61 percent (37 out of 61 administrative staff) of the administrative staff are casual employees of the institution. Before, these casual administrative staff are hired as job order (JO) employees of the university. Being a JO employee of the institution means that the status of your employment is not permanent but is temporary. With the strict implementation of Department Order 174 of the Department of Labor and Employment, the practice of "Endo" or End-of-Contract as well as the discriminative practice of 5-5-5 is highly discouraged in all institutions both private and public. For this reason, Higher Educational Institutions has stop rehiring personnel as casual employee. All of its casual employee is presently placed under a manpower agency. In this set-up, there is no employee-employer relationship that exist between the agency-based employees and the Higher Educational Institutions. To validate this, key informants narrated that:

Whenever we file for leave of absence, we need to ask permission from our manpower agency. (KI-4, & 6).

If there are discrepancy on the computation of our salary, we coordinate to the agency because it is them who processed our pay (KI-4, 5, & 6).

We render a total of nine hours per day. Eight hours of work and one hour lunch break are equal to one day of work. Most often, you do not render an overtime service not unless if it is requested by our boss (KI-4, 5, & 6).

Key informants 4, 5 and 6 are well aware of the trilateral employment-relationship that exist among them (agency-based employees), the manpower agency (contractor) and the Higher Educational Institutions (principal). They also know that of the fact that they can no longer call themselves as employees of Higher Educational Institutions because they are now employees of manpower agency. The type of employment set-up which exist among the agency-based employee of the institution, the Higher Educational Institutions and the manpower agency is the legitimate contractualization as specified and regulated by the D.O. 174 of DOLE.

In this sense, Higher Educational Institutions observed contractualization by partnering with a manpower agency which can supply them with the needed personnel. It is also common that there is more than one manpower agency connected per industry. This contractualization establishes a trilateral employer-employee relationship which is legally permitted under the DO 174 of DOLE. The trilateral relationship is a type of relationship that exists among the principal, the contractor the employee in contractualization. The contractor or manpower agency is the employer of all the deployed employees while the company is the principal of the contractor. The contractor or manpower agency is responsible for the hiring,

training, giving of salaries, and dismissal or termination of all deployed employees with the guidance on the standard labor laws.

Likewise, all of the existing maintenance or janitorial staff in the Higher Educational Institutions are also placed under agency (manpower agency). Presently, Higher Educational Institutions has arranged for another contractor for its maintenance or janitorial staff separate from those of the administrative staff. This means that government institution such as Higher Educational Institutions can make arrangement to more than one contractor. For similar reason as to those of the administrative staff, it was also recent when Higher Educational Institutions has decided to outsourced its maintenance or janitorial staff. Presently, majority of agency-based maintenance or janitorial staff of Higher Educational Institutions as previously the casual maintenance or janitorial staff of the institution. They have served the institution for more than three years before their employment was transfers to the manpower agency. Key informants recounted that:

I was hired four years ago and my assignment was to maintain the cleanliness of the floors in the ASAB building before I transferred to our new agency (KI-8).

Before I was placed under a manpower agency, I have been working as janitor in HEIS for three years (KI-10).

I am one of the longest serving janitors here in Higher Educational Institutions. If I am not wrong, I have served the institution for more than five years now then another almost a year under our agency (KI-9).

The contractualization of the maintenance or janitorial staff in Higher Educational Institutions is sad to note knowing that majority of the maintenance or janitorial staff have served that institution for many years already. This further implies that security of tenure was not provided by Higher Educational Institutions to many of the maintenance or janitorial staff despite the fact that they have served more than what the labor law is required before they can be regularized. Reflecting on this, since the maintenance or janitorial staff of the institution have worked under their manpower agency for more than six months now, this means that they all are regular employee now of the manpower agency and not of Higher Educational Institutions.

Security of tenure and remuneration are two common employment-related issues that both contract-based and agency-based employees of Higher Educational Institutions are facing. Key informants unanimously affirmed that contractualization has made employment more unfair and disadvantageous since the salary and benefit that they received is not the same as those who are hired for a regular or a permanent position. As the key informants expressed:

The basis of our payment is the rate per hour as reflected in our service contract. Our preparation times and our vacant times are not

included in the computation of our payment because the institution only pays our actual working hours (KI-1, 2 & 3).

What is stipulated as the minimum wage in the region will become the bases of our payment in a daily basis. Although, labor mandated benefits are provided but whenever we will be sick and will be absent from work, sick leave cannot be filled (KI-4, 5, 6, 7, 8, 9, 10).

The utterances explain why contractualization is disadvantageous to many contract-based and agency-based employees in the Higher Educational Institutions. Not only that contractualization has made their take-home pay less but also their employment status made them not qualified to enjoy other benefits and privileges that the regular or permanent employee are enjoying. Contractualization in Higher Educational Institutions has basically divided its workforce into two; the regular or permanent employees and the contractual or part-timer. In all cases, contract-based and agency-based employees in the institution are excluded of any faculty and other staff development activity. This reality has been accepted and recognized by key informants. They reasoned narrated:

“There are trainings, seminars and other activities in the University that we cannot join and cannot be part of because of our employment status (KI-1, 3, 5, 7, 8, 9)”.

In Higher Educational Institutions, contract-based and agency-based employees are not included on any seminars and trainings that the University provides as part of the faculty and staff development. The institution presumes that contract-based and agency-based employees come-and-go. Thus, it would be a waste if the institution invests money for any developmental activity.

Further, Higher Educational Institutions uses manpower to save training cost since employees from manpower agencies are not included for any developmental trainings and seminars. With this, training cost of the agency-based employees is saved since the training of agency-based employees is a responsibility of the manpower agency. For this reason, contracting a manpower agency to supply employees for certain positions is more economical than employing a regular employee in a company.

Furthermore, in the case of contract-based instructor in Higher Educational Institutions, contractualization is observed by placing the tenure of an employee on a service-contract which is not more than five months. In this practice, the Higher Educational Institutions hires employees who will be placed on a renewable service-contract of five (5) months or one semester. There is no contractor (manpower agency) involved in this practice. As experienced, three key informants shared:

*Our contract lasts usually for Five (5) months sir (KI-1.)
One semester sir. Until the end of the class. However, this is renewable by the next semester (KI-2).*

Until the class ends in a semester. But we can extend depending if there are available teaching load with which we can teach (KI-3).

In Higher Educational Institutions, contractualization of contract-based teaching staff is done by placing an employee on a service-contract which commonly with a span of five (5) months only. After serving the five-month contract or after the end of classes in a semester, the employee can re-apply for another five (5) months on the same position and institution over and over again provided that there will be extra teaching loads with which they can teach. This practice is colloquially termed as "5-5-5" and this is considered as bad aspect of contractualization as far as the labor law is concerned. According to Pamis (2017), "555" scheme prevents the workers from acquiring security of tenure and corresponding benefits that regular employees usually enjoy. The practice of 5-5-5 in all industries (private and public) in the Philippines is highly discouraged by the Department of Labor and Employment (DOLE) for reason that this is a direct infringement of the constitutional right of security of tenure of employees. Despite the opposition of the Department of Labor and Employment (DOLE) on the practice of 5-5-5 as a way of circumventing the labor laws concerning contractualization; based on interview, this is still evident in most institutions such as in Higher Educational Institutions.

Clearly, the practice of contractualization is evident in a government institution such as Higher Educational Institutions. In Higher Educational Institutions, the practice of contractualization of employees has varying schemes. The varying contractualization schemes in the institution have positive and negative attributes for both the institution and the employee.

CONCLUSIONS AND RECOMMENDATIONS

The practice of contractualization in the Higher Educational Institutions (HEIs) depend on the internal rules and codes implemented by the Institutions (Universities and Colleges). Job Orders and Contract of Service as forms of contractualization in the Higher Educational Institutions (HEIs) accounts higher as of the present time. With it, policies coming from different concerned agency of the government have been made to outline, set and formalize the actual use contractualization in varying offices of the HEIs. However; as far as the policy on labor and employment is concerned, the practice of all forms of contractualization is illegal.

Based on the findings of the study, the it is recommended that (a) the Civil Service Commission (CSC), Department of Labor and Employment (DOLE) and Philippine Overseas Employment Authority (POEA) as labor-related agencies must rationalize their policies on contractualization espousing decent work in the HEIs, (b) the contractualization in all forms should be made illegal, and (c) the policy termination and policy change have to be done in compliance to the international policies on employment.

FURTHER STUDY

The paper examined the contractualization practices of Higher Educational Institutions (HEIs) in Cebu only. For further study, topics and

concepts on (a) contractualization practices of Higher Educational Institutions (HEIs) from other areas, (b) an analysis of policies on hiring and terminating employees of Higher Educational Institutions, and (c) assessment of the common labor malpractice in Higher Educational Institutions (HEIs).

ACKNOWLEDGMENT

The researcher expressed his heartfelt gratitude to the following who made this study successful. To the faculty members of Department of Public Governance in Cebu Normal University as they are always open whenever I ran into question about my research, to the experts who were involved in the validation survey for this research and to all key informants with their passionate participation and input.

REFERENCES

- De Leon, H. (2011). Textbook on Philippine Constitution. Manila, Philippines :Rex Bookstore.
- Azucina, C. (2004). The Labor Code: with Comments and Cases. Manila, Philippines :Rex Bookstore.
- Gilles, T. (2003). The Contractualization of Labor Relations Law: An Illustration of North American Trends. Monreal, Canada: MPC UP Ltd
- Sundar, K. (2017). Industrial Violence and Labor Reforms. Mumbai, India: A to Z Industrial Estate.
- Kapunan, R. (2006). Labor-Only Contractors: New Generation of CABOs. Quezon City. Manila: C. & E. Pub
- Beerepoot, N. (2005). Collective Learning by Artisanal Subcontractors in A Philippine Furniture Cluster. Manila. Philippines: John Wiley And Sons Inc.
- Beerepoot, N. (2004). Learning in Small Enterprise Clusters: The Role of Skilled Workers in the Diffusion of Knowledge in the Philippines. Manila. Philippines: John Wiley And Sons Inc
- Fudge, J. (2005). Beyond Vulnerable Workers: Towards a New Standard Employment Relationship. Knet. UK :Canadian Lab. & Emp. LJ
- Resurreccion, P. Et. Al. (2012). Is The Retail Industry Circumventing the Law? The Philippine Case (Master's thesis). Retrieved from <https://www.scribd.com/document/336866108/pamela-pdf>
- McGovern, L. (2013). Globalization, Labor Export and Resistance: A Study of Filipino Migrant Domestic Workers in Global Cities (Master's thesis). Retrieved from <https://www.researchgate.net/publication/>
- Muinde, M. (2012). A study on the impact of contractor-subcontractor relationships on the performance of construction projects: a case study of the Kenyan Construction Industry (Master's thesis). Retrieved from <http://erepository.uonbi.ac.ke/handle/11295/11349>
- Yves, J. Et. Al.(2012). Study on the protection of workers' rights in subcontracting processes in the European Union (Master's thesis). Retrieved from <https://business-humanrights.org/>

- Laible, J. and Barkey, H. (2006) European Responses to Globalization: Resistance, Adaptation and Alternatives (Master's thesis). Retrieved from <http://pdfsu.com/>
- Abella, M. (1992) Contemporary Labor Migration from Asia: Policies And Perspectives of Sending Countries (Master's thesis). Retrieved from <https://www.popline.org/node/321114>
- Alegado, D. (1992) The Political Economy of International Labor Migration from the Philippines (Dissertation). Retrieved from <http://journals.sagepub.com>
- Andall, J. (1992) Women Migrant Workers in Italy (Dissertation). Retrieved from <https://www.sciencedirect.com>
- Ball, R. (1997) The Role of The State in The Globalization of Labor Markets: The Case of The Philippines (Master's thesis). Retrieved from <http://journals.sagepub.com>
- Cristobal, M. & Resurreccion, E. (2014). De-Confusing Contractualization: Defining Employees Engaged in Precarious Work in the Philippines (Dissertation). Retrieved from <https://www.coursehero.com/>
- Yun, A. (2014). Overturning the Iron Law of Wages-The minimum wage campaign in Korea (Dissertation). Retrieved from <http://www.global-labour-university.org/>
- Macaraya, B. M. Workers' Protection in a New Employment Relationship. ILO.