

## The Supreme Court and the Atypical Workforce

*Hans Leo Cacdac*

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*SUBJECT(S): LABOR LAW*

*KEYWORD(S): EMPLOYMENT CLASSIFICATION*

The Article discusses a body of jurisprudence on project, seasonal, and fixed-term employment. The first part of the Article is a statement of the constitutional and statutory policy upholding the right to security of tenure. The second part of the Article presents the legal framework on CWST. The third part of the Article analyzes the Supreme Court rulings on project, seasonal, and fixed term employment. The fourth part of the Article enumerates the recommendations on how the rules on Book VI of the Labor Code may be enhanced by the harvest of Supreme Court rulings.

Thereafter, the Author will conclude with the exhortation to craft rules on classification of workers based on security of tenure (CWST) that will delineate the parameters of recognized forms of atypical employment in the Labor Code. The Article also covers jurisprudence on project, seasonal, and fixed term employment from 1901 to 2004. The Author ends the Article with several recommendations as to what the Department of Labor and Employment (DOLE) can include in its advisories regarding project, seasonal, and fixed term employment.

First, for project employment, DOLE can include the principle test to determine the existence of project employment, definition of duration, causes of termination, records or evidentiary matters, report requirement, project to project arrangements for long periods of time, work pool tiers, and entitlement to separation pay and backwages. Second, for seasonal employment, DOLE can include the definition of season, whether climate or demand-based, regular employment, and its effect on the Mercado ruling. Lastly, for fixed term employment, DOLE can include the Brent school requisites, an enumeration of activities that may be covered by fixed term arrangements, extension of fixed term arrangements through a written contract of renewal, badges of invalid fixed term employment, and interpretation of contracts of adhesion.