

The Rights of Domestic Workers

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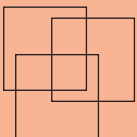


A Primer on

ILO Convention No. 189
(Domestic Workers Convention) &

RA 10361 Domestic Workers Act
(Batas Kasambahay)

Philippine Migrants Rights Watch (PMRW)
International Labour Organization (ILO)
2014



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2014

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The Philippine Migrants Rights Watch (PMRW) is a coalition of non-government organizations (NGOs) dedicated to the advocacy, monitoring, implementation and promotion of the rights of Overseas Filipino Workers. It organizes periodical fora to discuss migration issues; and participates actively in dialogues with government and civil society concerning issues related to the protection of migrants.

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Abbreviations

DOLE	Department of Labor and Employment
DSWD	Department of Social Welfare and Development
ILO	International Labour Organization
IRR	Implementing Rules and Regulations
LFS	Labour Force Survey
NBI	National Bureau of Investigation
NGO	Non-government Organization
OFW	Overseas Filipino Worker
PEA	Private Employment Agency
POEA	Philippine Overseas Employment Administration
Pag-IBIG Fund	Home Development Mutual Fund*
PhilHealth	Philippine Health Insurance Corporation**
PhP	Philippine peso [currency]
POLO	Philippine Overseas Labor Office
RA	Republic Act
RTWPB	Regional Tripartite Wages and Productivity Boards
SSS	Social Security System***
TESDA	Technical Education and Skills Development Authority
WAO	Women's Aid Organization [Malaysia]

* Pag-IBIG offers to members benefits such as: savings, short term loans, access to housing programs.

** PhilHealth provides subsidies for room and board, drugs and medicines, laboratory exams, operations, and professional fees for hospital stays of not less than 24 hours.

*** SSS provides meaningful protection to members and their families against the hazards of disability, sickness, maternity, old age, death and other contingencies resulting in loss of income or financial burdens (salary loan, housing loan, business loan).

Introduction

“With the ratification of ILO Convention No. 189 and a national law already in place, the Philippines is in a better position to pursue terms and conditions of work in overseas domestic work.”

Hon. Rosalinda Dimapilis-Baldoz, Secretary DOLE
ILO Informal Ministerial Meeting
Geneva, 18 June 2013

“Because of domestic workers, employers fulfill their basic civic responsibility to have proper homes and raise good families.”

Atty. Hans Leo J. Cacdac, POEA Administrator
Round Table Discussion on Labour Mobility
UN High-Level Dialogue on Migration
New York, 4 October 2013

Domestic work is a valuable, but often unrecognized, contribution to the well-being of families and to the functioning of economies and societies. Often performed by family members, particularly women, it is neither recognized as a formal component of the economy nor properly compensated. When done by hired labour, it is often not included in the labour laws of the country. Therefore, domestic workers do not enjoy the full protection of labour laws and they are often underpaid and asked to work overtime.

Domestic work has become an important sector of employment for migrant workers. The increasing participation of workers in formal sectors of their national economies generates the necessity to hire foreign workers to perform domestic chores. According to the International Labour Organizations (ILO), there are at least 53 million domestic workers worldwide (excluding child domestic workers) and 83 percent of these workers are women.¹ Their number is on a steady increase both in developed and developing countries.

In the Philippines, the large-scale migration of domestic workers occurs locally and internationally. The number of Filipino domestic workers employed overseas

reached 155,795 in 2012 (POEA 2007–2011 preliminary data), making domestic work the number one occupation for Overseas Filipino Workers (OFW). This process is largely driven by financial necessity, with women and girls from far-flung rural areas forced to leave their homes, to find work in Philippine cities, or in countries abroad, in order to augment their families' small incomes.

Abuses faced by domestic workers occur in both local and international settings, with maltreatment, disregard of their rights as workers, and discrimination being just some of the issues that need to be addressed.² Migrant domestic workers, who often live with their employers, are often asked to work long hours and are frequently paid salaries below the amount stipulated in their contract. Many are not given one free day a week and are limited in their social communications. Some even have their personal documents withheld from them.

Irregular and undocumented³ migrant domestic workers are frequently placed in a much worse situation. Many are subjected to exploitation. They are more likely to be overworked and suffer from poor living conditions. Some do not receive the salaries due them. Undocumented migrant workers are more likely to suffer from maltreatment, such as verbal or physical violence, or become victims of sexual abuse. These were the findings published by Human Rights Watch in 2008⁴ and corroborated by other reports⁵ and studies.⁶

These terrible situations are not only true in the Middle Eastern destination countries that host large populations of migrant domestic workers. Similar stories of abuse and maltreatment have been reported by domestic workers and their advocates in Asian destinations like Hong Kong (China), Singapore, and Malaysia.⁷ Cases of abuse of domestic workers have also been reported in the Philippines. Although these harsh realities are not uncommon occurrences, there are also stories of triumph. Some domestic workers, through hard work and decent employment opportunities, have been rewarded generously upon the termination of their contracts. There are also success stories of domestic workers becoming entrepreneurs by using their savings and investments after returning back home to the Philippines.

In order to eliminate these abuses and create more successes, an international standard is necessary to protect and promote the rights of domestic workers. The Philippines played a lead role in the adoption of ILO's Convention No.189 on Domestic Workers Convention. The Philippines became the second country to ratify the Convention when President Benigno S. Aquino III signed the ratification on 18 May 2012. The Philippine Senate concurred on 26 August 2012.

The Philippine ratification of ILO Convention No.189 is a milestone for an estimated 2.5 million Filipino domestic workers here and abroad (National Statistics Office, *July 2011 Labour Force Survey* and POEA 2007–2011 Overseas Employment Statistics). The Convention guarantees the protection and promotion of their rights.

In compliance with the ratification, the Philippines passed Republic Act (RA) 10361, otherwise known as the *Batas Kasambahay* (or Domestic Workers Law) in January 2013. Among the most important features of the law are articles on the following:

- upholding the rights and dignity of domestic workers;
- provisions for their protection;
- the use of a formal contract that outlines the responsibilities of both the employer and employee and a mechanism for the settlement of disputes;
- the setting of a minimum wage and its future adjustment; and
- the provision of compulsory social security benefits for domestic workers.

In order to better inform domestic workers of their rights, the Philippine Migrants Rights Watch (PMRW), with the support of the International Labour Organization's ASEAN TRIANGLE Project through funds from the government of Canada, has developed this educational booklet on ILO Convention No.189 and RA 10361. The primer is intended to provide migrant domestic workers with reading material to make them informed and aware of their rights, due process, and mechanisms to address their work-related concerns. It will also be useful for advocates, civil society organizations, the Government, and other stakeholders in promoting and protecting the rights of Filipino migrant domestic workers. This primer will be widely distributed to help empower migrant domestic workers and engage advocates and other stakeholders in advancing their rights.

Filipino domestic workers at home and abroad: An overview¹

Maruja M.B. Asis

Scalabrini Migration Center

Domestic work is an important source of employment for Filipinos, especially women, whether in the Philippines or overseas. At least 1.9 million persons aged 15 and above, engage in domestic work as their primary occupation in the Philippines, with women comprising four in five domestic workers (ILO, 2011a). Domestic work is also an important sector of the OFWs deployed annually. Deployment data from the Philippine Overseas Employment Administration (POEA) indicate that for the years 2004 to 2012, domestic work was the top occupation among the new hires and land-based workers (IOM and SMC, 2013). The migration of women who find employment as domestic workers overseas has highlighted the need to protect workers in this sector.

Domestic work in the Philippines and abroad

Domestic work has been traditionally regarded as the work that women do. Depending on who does it, the everyday activities of work around the house is either considered as a work of love if performed by mothers and other women members of the family, or unskilled work if carried out by lowly paid workers. Many Filipino families and households depend on domestic workers to take care of the minutiae of household-related work, thereby freeing women to take on paid employment outside the home.

According to ILO (2011b), local domestic workers are young, with the largest share in the 15-24 age group. Interestingly, there are more male than female domestic workers in the younger ages, suggesting that the former move on to other jobs or studies in the older ages. Compared with earlier data that showed most local domestic workers had an elementary education, recent data suggest an improvement in the educational background of local domestic workers. Presently, most of them have completed high school.

Compared with local domestic workers, overseas domestic workers are older, have more years of education, and come from various regions in the Philippines (Sayres, 2005; ILO, 2011b). Having more years of education may help explain why Filipino migrant domestic workers have better working conditions than other migrant women in the same occupation (see the volume edited by Huang, Yeoh

and Rahman, 2005). Nonetheless, more education does not guarantee the decent treatment of migrant domestic workers. The problems of migrant domestic workers are compounded by their status as migrants, as women, and by the fact that they come from a less developing country, and engaged in work that is lowly regarded. Those in an irregular situation are further burdened by their precarious legal status in the destination country.

The role of civil society and advocating for domestic workers' rights

On the local front, although the 1974 Labor Code had a section on the employment of house helpers, advancing domestic workers' rights did not prosper until the 1990s. The momentum began in 22 June 1994 when the International Labour Organization (ILO) and the Philippines signed a Memorandum of Understanding (MOU) under ILO's International Programme for the Elimination of Child Labour.² In response to one of the recommendations of a National Consultation held under the program, Senator Francisco Tatad filed a Senate Bill for domestic workers in 1996. In 1999, Representative Juan Ponce Enrile filed the most comprehensive version of the law, naming it "*Batas Kasambahay*."³ The NGO Visayan Forum (VF) immediately conducted comprehensive multi-sectoral consultations in Batangas, Davao, Bacolod, and Manila to build a strong consensus for a Magna Carta for Household Workers. VF has since played a key role in mobilizing the campaign for the passage of the Kasambahay Bill.⁴ On 18 January 2013 the Domestic Workers Act or Kasambahay Law was finally signed into law.

The snail's pace of the Kasambahay Bill contrasts with the passage of a law to advance the protection of Filipino migrant workers (including migrant domestic workers) and the Philippine state's ratification or accession of international instruments related to migrant workers. The bill to promote the protection of OFWs languished in Congress for a long time. It was fast-tracked in the wake of public outrage over the execution of Flor Contemplacion, a migrant domestic worker in Singapore, on 17 March 1995. Although charged and found guilty by the Singapore government for the death of another Filipino domestic worker, Delia Maga, and Delia's ward, Nicholas Huang, many Filipinos, however, believed that Contemplacion was innocent and was not provided the necessary support by the Philippine government. On 7 June 1995, some three months after the Contemplacion tragedy, the Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act or RA 8042) was signed into law.⁵ In so doing, the Philippines became the first country in Asia to have a law aimed at promoting the protection of its nationals abroad. It is important to note that RA 8042 recognizes the role and contributions of migrant women and calls for gender-sensitivity in programs and services to migrant workers. Migrant-oriented NGOs in the Philippines closely monitored the deliberations of the bill. The coming together of NGOs to discuss

the merits of the bill and to monitor its implementation led to the formation of the Philippine Migrants Rights Watch, a network of NGOs seeking to promote the protection of the rights of Filipino migrants.⁶ Soon after, the Philippines ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families on 5 July 1995.

Prior to RA 8042, the Philippines had already developed key institutions and mechanisms to strengthen the protective aspects of international labor migration. The need for worker protection intensified with the increasing share of women in labor migration, particularly those in domestic work. The most recent attempt to promote migrant domestic workers was the household reform package in 2006 which includes the following: increasing the minimum age to 23 years old, increasing the monthly salary to US\$400, disallowing placement fees, and requiring skills certification and cultural orientation of departing domestic workers. An assessment of the impact of the reform package revealed that it reduced the deployment of migrant women in domestic work temporarily. By 2009, the volume of deployment resumed. Moreover, there were many violations of the new policies, especially the no-placement fee policy (Battistella and Asis, 2011).

In summary Philippine-based NGOs supported the Domestic Workers Convention by participating in regional and international campaigns, which also fed back to national consultations and advocacy. The dissemination of evidence-based information on the conditions of domestic workers worldwide, including migrant domestic workers, helped in raising awareness about the need to provide protection to these workers. This culminated with the 2011 adoption of the ILO Convention No.189 (Domestic Workers Convention) at the 100th International Labour Conference in Geneva. C189 needed at least two ratifications to be enforced. The ratification of C189 by Uruguay and the Philippines enabled the convention to be enforced. The passage of the Kasambahay Law in the Philippine followed in 2013. After centuries of invisibility, informality and lack of protection, domestic work is now slowly being recognized as work, and domestic workers as workers that should be protected by law.

The International Labour Organization (ILO) is committed to promote decent work for all through the achievement of the goals of the ILO Declaration on Fundamental Principles and Rights at Work and the ILO Declaration on Social Justice for a Fair Globalization. In the adoption of Convention No. 189 concerning decent work for domestic workers, the ILO recognizes:

“the significant contribution of domestic workers to the global economy, which includes increasing paid job opportunities for women and men workers with family responsibilities; greater scope for caring for ageing populations, children and persons with disabilities; and substantial income transfers within and between countries;

that domestic work continues to be undervalued and invisible and is mainly carried out by women and girls, many of whom are migrants or members of disadvantaged communities, and who are particularly vulnerable to discrimination with respect to conditions of employment and of work, and to other abuses of human rights;

that in developing countries with historically scarce opportunities for formal employment, domestic workers constitute a significant proportion of the national workforce and remain among the most marginalized;

that International Labour Conventions and Recommendations apply to all workers, including domestic workers, unless otherwise provided; and

the special conditions under which domestic work is carried out, that make it desirable to supplement the general standards with standards specific to domestic workers, so as to enable them to enjoy their rights fully.”

- International Labour Organization (ILO)

ILO Convention No.189

Domestic Workers Convention

“Domestic work should be recognized as WORK! Domestic workers are born free and equal with dignity and rights!” Those were the slogans of the many Filipino advocates for domestic workers rights.

The sad realities for some domestic workers have been highly publicized. Domestic workers have been subjected to degrading working and living conditions, prompting some to refer to these individuals as modern day slaves. Many have been exploited through low or unpaid wages, and overworked with no rest or leave privileges given to them. For some, violence or maltreatment, be it verbal or physical, is a common thing.



In 2011, the International Labour Organization (ILO) adopted Convention No.189 on Domestic Workers. This Convention has been in force since September 2013. To date, 13 ILO Member States (Argentina, Bolivia, Costa Rica, Ecuador, Germany, Guyana, Italy, Mauritius, Nicaragua, Paraguay, Philippines, South Africa and Uruguay) have ratified the Convention.

The Philippine Government is to be commended for being the second country, after Uruguay, to ratify ILO Convention No.189. It was signed by President Aquino on 18 May 2012, then ratified by the Philippine Senate on 6 August 2012, bringing into legal force this landmark instrument seen to advance the situation of domestic workers worldwide. The Government’s commitment to protect domestic workers was further reinforced when it enacted into law Republic Act 10361 Domestic Workers Act, also known as *Batas para sa mga Kasambahay* on 18 January 2013. This law serves as a complement to ILO Convention No.189.

Frequently asked questions

1) What is a Convention of the ILO?

A treaty adopted by the International Labour Conference, which is made up of government, worker, and employer delegates from the 183 Member States of the ILO. (From ILO, Convention No.189)

2) What is Convention No. 189 about?

Convention No. 189 offers specific protection to domestic workers. It lays down basic rights and principles, and requires States to take a series of measures with a view to making decent work a reality for domestic workers. (From ILO Convention No.189)

3) What does it mean to ratify a Convention?

When a country ratifies a Convention, its government formally makes a commitment to implement all the obligations provided in the Convention, and to report periodically to the ILO on the measures taken in this regard. (From ILO Convention No.189)

4) How is the Convention to be implemented?

The Convention may be implemented by extending or adapting existing laws and regulations or other measures, or by developing new and specific measures for domestic workers. Some of the measures required under the Convention may be implemented progressively. (From ILO Convention No.189)

5) How does Convention No. 189 define “domestic work” and “domestic worker”?

The Convention defines “domestic work” as work performed in or

Other ILO Conventions and international instruments relevant to Convention No.189

Migration for Employment Convention (Revised), 1949 (No.97)

Migrant Workers (Supplementary Provisions Convention, 1975 (No.143)

Workers with Family Responsibilities Convention, 1981 (No.156)

Private Employment Agencies Convention, 1997 (No.181)

Employment Relationship Recommendation, 2006 (No.198)

ILO Multilateral Framework on Labour Migration: Non-binding principles and guidelines for a rights-based approach to labour migration (2006)

Universal Declaration of Human Rights (1948)

International Covenant on Civil and Political Rights (1966)

International Covenant on Economic, Social and Cultural Rights (1966)

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

Convention on the Elimination of All Forms of Discrimination against Women (1979)

United Nations Convention against Transnational Organized Crime, and in particular its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and its Protocol against the Smuggling of Migrants by Land, Sea and Air (2000)

Convention on the Rights of the Child (1989)

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)

for a household or households. “Domestic worker” means any person engaged in a domestic work within an employment relationship. A person who performs domestic work only occasionally or sporadically and not on an occupational basis is not considered a domestic worker.

6) What are the fundamental principles and rights at work of domestic workers? (From ILO Convention No.189 Fact Sheet)

- a) promotion and protection of the human rights of all domestic workers
- b) respect and protection of fundamental principles and rights at work

EVERY MIGRANT DOMESTIC WORKER HAS THE RIGHT TO A SAFE AND HEALTHY WORKING ENVIRONMENT

- freedom of association and the effective recognition of the right to collective bargaining;
- elimination of all forms of forced or compulsory labour;
 - effective abolition of child labour; and
 - elimination of discrimination with respect to employment and occupation.



- c) effective protection against all forms of abuse and harassment and violence
- d) fair terms of employment and decent living conditions

ILO Member States that ratify ILO Convention No. 189 are obliged to respect all other rights of domestic workers defined under ILO Convention No. 189, such as, but not limited to, protection against all forms of abuse, harassment, and violence; the right to fair terms of employment, and decent working and living conditions; the right to information on terms and conditions of employment; the right to decent working hours, weekly rest periods, proper remuneration; the right to a safe workplace; and the right to health and social security.

7) Is there a minimum age for domestic workers?

Member States shall set a minimum age for domestic workers, provided that it will not promote child labour (as consistent with ILO Conventions No.138 and No.182) and shall not be lower than that set by national laws and regulations for formal workers. Domestic workers who are under the age of 18 but above the

minimum age of employment should not be deprived of compulsory education or opportunities to participate in further education or vocational training.

8) Do you need a working contract to work abroad?

Yes. Those who will be working abroad should have a written job offer or contract of employment that is enforceable in the country where the work will be performed, before crossing the national border to perform the domestic work in which the contract applies.



9) What should be contained in the written contract or terms and conditions of employment between the domestic worker and the employer?

A contract should contain the following information:

- (a) the name and address of the employer and of the worker;
- (b) the address of the usual workplace or workplaces;
- (c) the starting date, place, and duration of contract;
- (d) the type of work to be performed;
- (e) the remuneration, method of calculation and periodicity of payments;
- (f) the normal hours of work;
- (g) paid annual leave, and daily and weekly rest periods;
- (h) the provision of food and accommodation, if applicable;
- (i) the period of a probation or trial period, if applicable;
- (j) the terms of repatriation, if applicable; and
- (k) terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.



10) What should be considered under the employment terms?

There must be an understanding between the employer and employee. A domestic worker:

- is free to reach an agreement with their employer or potential employer as to whether to reside in the employer’s household or not;
- who chooses to reside in the employer’s household is not obliged to remain in the household or with household members during periods of daily and weekly rest or annual leave; and is entitled to keep in their possession their travel and identity documents.

11) What is the required working hours and rest for a domestic worker?

Since domestic work is now equated with any regular job or work, a domestic worker should also enjoy the same rights as any worker in accordance with national laws. Ratifying countries should take measures aimed at ensuring equal treatment between domestic workers and workers generally with respect to normal hours of work; overtime compensation; periods of daily and weekly rest; and paid annual leave. A domestic worker has the right to rest for at least one day or 24 consecutive hours every week. Stand-by time should be regulated. If a domestic worker is asked to render work beyond the required working hours (referred in Convention No. 189 as “standby time”), they should be compensated accordingly as determined by national laws or by other means consistent with national practice.



12) How should a domestic worker be compensated?

A domestic worker should receive at least the minimum wage and be paid in cash. Employers are not encouraged to pay even a small portion of the worker’s compensation in kind unless requested by the domestic worker for their personal benefit, and provided also that the equivalent value of said compensation “in kind” is fair and reasonable.

13) What social security benefits should be given to a domestic worker?

Domestic workers should enjoy conditions that are not less favourable than those applicable to workers, generally with respect to social security protection, including maternity benefits.

14) What government mechanisms should be put in place in order to effectively protect domestic workers against abusive practices used by private employment agencies?

Member States should ensure that private employment agencies operate according to law, are properly regulated, and with mechanisms in place for addressing complaints against them. Agencies should not deduct placement fees from the wages of domestic workers. Bilateral/multilateral arrangements between sending



and receiving countries of domestic workers with regard to policies governing the sending of these employment agencies are encouraged.

15) Where can domestic workers seek redress for their grievances?

Domestic workers, either by themselves or through a representative, should have effective access to courts, tribunals or other dispute resolution mechanisms, under conditions that are not less favourable than those available to workers generally. Effective and accessible complaint mechanisms and means of ensuring compliance with national laws and regulations for the protection of domestic workers should be established.



Member States should develop and implement measures for labour inspection, enforcement, and penalties. This should be done with respect to the special characteristics of domestic work, and with national laws and regulations under which access to household premises may be granted, with due regard for privacy.

Migrant domestic worker abuse*

According to Human Rights Watch, in 1995 Malaysia became the largest importer of labour in Asia, taking in over a million workers. A national English daily, *The Sun*, on 6 April 2000 reported that the Immigration authorities estimated over 2 million migrant workers to be in Malaysia, of which more than 160,000 were hired as domestic workers.



The Women's Aid Organization (WAO), a Malaysian NGO, has done an analysis of media coverage of migrant domestic worker abuse that reveals that abuse of migrant domestic workers is a recurring phenomenon in Malaysian society. The abuse occurs on several different levels – psychological, physical and economic – and is of growing concern. Migrant domestic workers have been subjected to slapping, beating, pinching. They are often overworked, rising at 5 am and working into the night. Migrant domestic workers can be malnourished, given poor quality food in small quantities. Mental torture comes in the form of domestic workers being denied contact with family and friends, and there has even been a case of a migrant domestic worker being driven into the forest at night and threatened with abandonment. Salaries have been withheld. One domestic worker in Malaysia spent two years living in a small cage-like enclosure in the garden, let out only to work.

Since its inception in 1982, the WAO began receiving several isolated cases of domestic worker abuse. The first case, in 1988, was of a Filipina migrant domestic worker who had been raped by her employer. Since that case, at least one migrant domestic worker per year has sought refuge at WAO for physical abuse. In 1999 alone, WAO provided shelter to 11 migrant domestic workers who had been abused, and provided counselling and advice to more. Shelter and support is vital. In Malaysia, once employment is terminated, either by the worker or the employer, the worker loses their permit to work in Malaysia and is unable to financially support himself/herself. Many migrant women domestic workers feel very discouraged to seek legal redress for abuse, as the current legal process can take years. There is no specific law in Malaysia on violence against migrant domestic workers.

* Migrant Domestic Worker Abuse, http://www.wao.org.my/Migrant+Domestic+Workers_54_5_1.htm, accessed on 7 January 2014.



RA 10361
Domestic Workers Act
(Batas Kasambahay)



RA 10361 Domestic Workers Act (*Batas Kasambahay*)

Philippine’s Republic Act No. 10361, an Act Instituting Policies for the Protection and Welfare of Domestic Workers, is also known as the Domestic Workers Act or *Batas Kasambahay*. President Benigno S. Aquino III signed the Act into law on 18 January 2013. It took effect on 4 June 2013 after the publication of its Implementing Rules and Regulations (IRR).



Expected to benefit at least 2.5 million domestic workers (or *kasambahay*), the law is considered a landmark piece of labour and social legislation. For the first time, domestic or household work is now recognized as a formal sector of labour. Hidden from the public, the working condition of domestic workers is unique and rarely monitored by government agencies. So there is a need to provide a legal basis and an implementing mechanism for the protection and promotion of domestic workers’ rights and welfare.

Domestic Workers Day

The Philippines has designated
18 January as its
National Domestic Workers Day

The International Domestic Workers Day
is celebrated every year on 16 June

Batas Kasambahay also serves as the Philippines’ compliance for its obligation and commitment on Decent Work for Domestic Workers as provided for in the ILO Convention No.189. Although the law applies only to domestic workers in the Philippines, the *Batas Kasambahay* will serve as model to other Asian countries who are yet to recognize domestic workers as a formal labour sector.

Frequently asked questions

1) Who are covered by the Law?

The Domestic Workers Act applies to all domestic workers employed and working within the Philippines whether they live in the residence of their employers or not. It covers:

- (a) General househelp;
- (b) Nannies or nursemaids;
- (c) Cooks;



- (d) Gardeners;
- (e) Laundry persons; or
- (f) Any person who regularly performs domestic work in one household on an occupational basis.

2) Who are not covered by the Law?

- (a) Service providers; (Rule 1 Sec.3 I: Service provider - refers to any person or entity that carries an independent business and undertakes to perform a job, work or service on her own for a household; according to their own manner and method; and free from the control and direction of the employer in all matters in connection with the performance of the work, except as to the results thereof (e.g., an on-call laundry person; on-call cooks for events/celebrations; on-call househelper/cleaner; etc.)
- (b) Family drivers;
- (c) Children under foster family arrangement; and
- (d) Any other person who performs work occasionally or sporadically and not on an occupational basis.



3) What are the rights of a domestic worker?

- (a) Compensation should be as prescribed by the law in Article IV, Sec.24. The Law sets brackets for the wage of domestic workers according to the location of their work. One year after the Law's implementation, the amount will be reviewed and adjusted accordingly.
- (b) Other mandatory benefits, such as the daily and weekly rest periods; service incentive leave; and 13th month pay as set down in Article IV, Secs.20, 21, 25 and 29. Domestic workers are entitled to an eight hour daily rest; 24 consecutive hours of rest a week; five days of leave with pay after one year of service; and a 13th month pay (refer to compensation terms in the Law for a sample computation).
- (c) Freedom from employers' interference in the disposal of wages, as set down in Article IV, Sec.27. Domestic workers have sole control of the management and use of their wage, and their employer should not intervene, interfere, or exert influence in any manner as to its disposal.
- (d) Social security coverage or benefits under the Social Security System (SSS), PhilHealth and Pag-IBIG as set down in Article IV, Sec.30. Domestic workers are entitled to these benefits, and premium payments should be paid by the employer. An exception is in cases where domestic workers are earning 5,000 Philippine pesos (PHP) or above per month; in

which case, they already share a proportionate counterpart with their employer with regard to premium payments or contributions.

- (e) Standard of treatment as set down in Article II, Sec.5. The employer or any member of the household are prohibited from subjecting the domestic worker to any form of physical, verbal, or psychological abuse; inflicting physical violence or harassment; or committing any act that degrades the dignity of domestic workers.
- (f) Board, lodging, and medical attendance as set down in Article II, Sec. 6. The employer is required to provide the domestic worker: (a) at least three adequate meals a day; (b) humane sleeping conditions; (c) appropriate rest; and (d) first aid medical assistance in case of work-related illness or injuries without loss of benefits.
- (g) Right to privacy as set down in Article II, Sec.7. Domestic workers should be given their own quiet time and should not be disturbed during their time of rest. Employers should respect their privacy (i.e., refrain from interfering with all forms of social communication, or searching the domestic worker's belongings or personal effects without valid reason).
- (h) Access to outside communication as set down in Article II, Sec.8. Domestic workers are allowed to communicate and interact with others during their free time, and even during their working time in cases of family emergencies (e.g., sickness or death, calamity, etc.). Use of their employers' communication facilities may be charged to the domestic worker unless the employer agrees to waive such charges.
- (i) Access to education and training as set down in Article II, Sec.9. Employers should encourage interested domestic workers to complete their basic education or to pursue further studies. Arrangements should be made between employer and domestic worker so the latter could work and study at the same time, through alternative learning systems and vocational or higher learning.
- (j) Right to form, join, or assist labour organizations as set down in Rule IV, Sec. 1j. Domestic workers have the right to establish or belong to an organization of their choosing.
- (k) Right to be provided a copy of the employment contract as required under Rule II, Sec.7. A domestic worker should be provided with a copy of the employment contract.



- (l) Right to certificate of employment as required in Rule VII, Sec.5 The employer should issue a certificate of employment containing the nature, duration, and performance of services rendered upon completion of the domestic worker's contract.
- (m) Right to terminate the employment as provided in Rule VII, Sec.2. Situations where the employer is found to be in violation of the rights of the domestic worker; or conditions that may harm the health and well-being of the domestic worker and the rest of the household, could serve as valid grounds for the termination of the employment contract.
- (n) Right to exercise their own religious beliefs and cultural practices as set down in Rule IV, Sec.1n. Domestic worker should be given the freedom to exercise their own religion, beliefs, and spiritual and cultural practices at all times; as long as such practices do not interfere with the execution of their task and duties and are not prejudicial to the household.
- (o) Prohibition against privileged information as set down in Article II, Sec.10. Domestic worker should also render their employer and their employer's household the same respect for privacy and confidentiality accorded to him/her. Privileged information will be considered as rumour or baseless if used in court; unless otherwise used as evidence or testimony for a suit in a crime against persons, property, chastity, or personal liberty and security.

4) What are the basic necessities that an employer should provide to a domestic worker?

- a. At least three adequate meals a day, taking into consideration the worker's religious beliefs and cultural practices;
- b. Humane sleeping condition; and
- c. Appropriate rest and basic medical assistance.

5) What are the required terms and conditions of employment?

Below are important terms and conditions of employment found in the Law. Please refer to the answer for Question #3 above on the rights of a domestic worker for more details.

- a) Health and safety – The employer should ensure that the workplace of the domestic worker is not hazardous and will not cause undue health and medical problems.
- b) Daily rest period
- c) Weekly rest period
- d) Assignment to non-household work – Domestic workers assigned to perform other duties in an industrial, commercial or agricultural setting



should be paid at least the applicable minimum wage, and their compensation should not be lower than workers employed in such fields.

- e) Extent of duty – If an employer requires a domestic worker to perform additional tasks for another household, he/she shall be entitled to an additional pay of not less than the current minimum wage rate of a domestic worker.
- f) Minimum wage
- g) Payment of wages
- h) Pay slip – The pay slip contains the amount of wage (paid in cash) and any deductions, and must be issued by the employer to the domestic worker.
- i) Prohibition on interference in the disposal of wages
- j) Prohibition against the withholding of wages -- It is against the law for the employer to directly or indirectly withhold the wages of a domestic helper. However, the employer may forfeit unpaid salaries of not more than 15 days of work if the domestic worker leaves his/her employer without justifiable reason.
- k) Leave benefits
- l) Social benefits and other benefits
- m) Rescue and rehabilitation of abused domestic workers – The Department of Social Welfare and Development (DSWD)'s municipal or social welfare officers and barangay captains are responsible for rescuing abused or exploited domestic workers.



6) What are the standard documents that an employer may require from a domestic worker?

- a. Medical certificate or health certificate issued by a local government health officer;
- b. Barangay and police clearance;
- c. National Bureau of Investigation (NBI) clearance; and
- d. Duly authenticated birth certificate or, if not available, voter's identification card, baptismal record, or passport showing the domestic worker's age.

7) What should an employment contract contain?

An employment contract shall be executed by and between the domestic worker and the employer before the commencement of service, in a language understood by both the domestic worker and the employer. The domestic worker shall be provided a copy of the duly signed employment contract which must include the following:

- (a) Duties and responsibilities of the domestic worker, which include the responsibility to render satisfactory service at all times;
- (b) The period of employment;
- (c) Compensation;
- (d) Authorized deductions;
- (e) Hours of work and proportionate additional payment;
- (f) Rest days and allowable leaves;
- (g) Board, lodging and medical attention;
- (h) Agreements on deployment expenses, if any;
- (i) Loan agreement, if any;
- (j) Termination of employment; and
- (k) Any other lawful condition agreed upon by both parties.



8) What is a standard employment contract?

The Department of Labor and Employment (DOLE) has produced a standard employment contract (*Kontrata sa Paglilingkod sa Tahanan*) or Form BK-1 (please refer to appendix for sample). A signed copy of the employment contract between the employer and the domestic worker should be furnished to the Office of the *Punong Barangay* (Village Chief) in the *barangay* (village) where the employer resides. Both parties may renew their contract upon its expiration, and this renewed contract should be registered with the *barangay*. Should the employer and domestic worker fail to renew their contract, the terms of the original contract will be followed.

9) What are the compensation terms for domestic workers?

Domestic workers must be paid their due wages in cash, directly and on time, at least once a month. The employer should issue a pay slip containing the amount of the wage and deductions made, if applicable. An employer is prohibited to pay wages in the form of promissory notes, gift certificates, discount coupons, tokens, vouchers, or anything other than cash. Copies of the pay slips should be kept by the employer for a period of three years.



The minimum wage of domestic workers in the Philippines shall not be less than the following (as of 2013):

1. National Capital Region - PHP2,500.00
2. Cities and first class municipalities - PHP2,000.00
3. Other municipalities - PHP1,500.00

The Technical Education and Skills Development Authority (TESDA) and the Regional Tripartite Wages and Productivity Board (RTWPB) are in charge of reviewing and determining the wage adjustments of domestic workers based on their level of skill, experience, and competency.

Section 24 of the Law states that the RTWPBs are responsible for reviewing and determining adjustments in the minimum wage for domestic workers. Under Rule VIII, Sec.4 of the IRR, the role of TESDA is to develop a skills/competency-based pay system that may be considered by the RTWPBs in issuing wage advisories.

A domestic worker is also entitled to a 13th month pay wherein the total basic wage received in a given calendar year shall be divided by 12. The amount derived shall be paid not later than December 24. For example, if a domestic worker has been employed for 11 months of a given calendar year at a monthly wage of PHP2,500, the 13th month pay is computed as follows:

$$\text{PHP}2,500 \times 11 = \text{PHP}27,500$$

$$\text{PHP}27,500/12 = \text{PHP}2,291.66$$

So the 13th month pay bonus for that domestic worker would come to PHP2,291.66

10) Are domestic workers entitled to rest periods and leaves?

A domestic worker is entitled to a weekly rest period of at least 24 consecutive hours each week. The employer and the domestic worker should agree on the schedule of the weekly rest period with due consideration of the domestic worker's religious and cultural beliefs.

The rest day could be shortened to less than 24 hours, depending on the arrangement between the employer and the domestic worker. But the extra hours of work rendered should be monetized.

A domestic worker can also avail himself/herself of the five-day annual Service Incentive Leave (SIL) after one year of service. Unused leaves, however, are forfeited and do not accrue to the following year. They are not convertible to cash (Rule IV, Secs.6–7).

11) What are other possible arrangements for the domestic worker's weekly rest day and Service Incentive Leave?

- a. Offsetting a day of absence with a particular rest day;
- b. Waiving a particular rest day in return for an equivalent daily rate of pay;
- c. Accumulating rest days not exceeding five days;

- d. Adding the accumulated rest days (maximum of five days) to the five-day SIL; and
- e. Other similar arrangements (Rule IV, Secs.6–7).

12) What are the mandatory benefits of a domestic worker?



A domestic worker who has rendered at least one month of service shall be covered by the SSS, the PhilHealth, and the Pag-IBIG. They shall be entitled to all the benefits in accordance with the pertinent provisions provided by law. Premium payments or contributions shall be shouldered by the employer. However, if the domestic worker is receiving a wage of PHP5,000.00 or above per month, the domestic worker shall pay the proportionate share in the premium payments or contributions, as provided by law.

13) What is the legal age qualification for a domestic worker to enter into an employment contract?

The minimum age requirement for a domestic worker is 15 years old. The hiring of a domestic worker who is below 15 years old is prohibited by law. Domestic workers who are above 15 but below 18 years of age are called “working children”. Only the parent or legal guardian of working children can sign their employment contracts. Domestic workers aged 18 and above are considered of legal age in the Philippines and may therefore execute employment contracts on their own.



14) What are the conditions for terminating service?

The domestic worker and the employer may mutually agree, upon written notice, to pre-terminate the contract of employment to end the employment relationship. If the duration of the domestic service is not determined either in stipulation or by the nature of the service, the employer or the domestic worker may give notice to end the working relationship five days prior to the intended termination of the service. Neither the domestic worker nor the employer may terminate the contract before its expiration, except for grounds provided in the answer to Question #15 below.

15) On what grounds can a domestic worker terminate their contract?

The domestic worker may terminate their contract for any of the following reasons:

- a. Verbal or emotional abuse of the domestic worker by the employer or any member of the household;

- b. Inhumane treatment including physical abuse of the domestic worker by the employer or any member of the household;
- c. Commission of a crime or offense against the domestic worker by the employer or any member of the household;
- d. Violation by the employer of the terms and conditions of the employment contract and other standards set forth under the law;
- e. Any disease prejudicial to the health of the domestic worker, the employer, or member/s of the household; and
- f. Other causes analogous to the foregoing.



16) On what grounds can an employer terminate a domestic worker’s contract?

An employer may terminate the services of a domestic worker at any time before the expiration of the contract, for any of the following reasons:

- a. Misconduct or wilful disobedience;
- b. Gross or habitual neglect or inefficiency in the performance of duties;
- c. Fraud or wilful breach of trust;
- d. Commission of a crime or offense;
- e. Violation of the employment contract and other standards set forth under the law;
- f. Any disease prejudicial to the health of the domestic worker, the employer, or member/s of the household; and
- g. Other causes analogous to the foregoing.



17) What are the entitlements of a domestic worker who was unjustly dismissed by their employer?

- a. Outright payment of earned wages; and
- b. Indemnity benefit in the form of wages equivalent to 15 days work.



18) What are the liabilities of a domestic worker who leaves their employer without justifiable reason?

- a. Forfeiture of wages equivalent to 15 days work; and
- b. Reimbursement of the deployment expenses, if the employment contract is terminated within six months from the start of employment.

19) What are the functions and responsibilities of a Private Employment Agency (PEA)?

A PEA is any individual, legitimate partnership, corporation, or entity licensed to engage in the recruitment and placement of domestic workers for local employment. The PEA shall undertake the following responsibilities (Rule III, Sec. 3):



- (a) Ensure that the domestic worker is qualified for the job;
- (b) Secure the best terms and conditions of employment for the domestic worker;
- (c) Ensure that the terms and conditions of employment and benefits are in accordance with what is stipulated in this IRR;
- (d) Provide a pre-employment orientation briefing to the domestic worker and the employer about their rights and responsibilities in accordance with this IRR;
- (e) Ensure that the domestic worker is not charged or required to pay any recruitment or placement fees;
- (f) Keep copies of employment contracts and agreements pertaining to recruited domestic workers which shall be made available during inspections or whenever required by the DOLE or local government officials;
- (g) Assist the domestic worker in filing their complaints or grievances against their employers;
- (h) Cooperate with government agencies in rescue operations involving abused or exploited domestic workers; and
- (i) Assume joint and solidary liability with the employer for payment of wages, as well as wage-related and other benefits, including monthly contribution for SSS, PhilHealth, and Pag-IBIG membership.



The DOLE shall maintain a system of licensing and regulation of Private Employment Agencies (PEA) to protect both employers and the domestic workers. PEA can only operate if they are licensed by DOLE and duly registered and authorized by the concerned local government unit. (Rule III, Sec.1)

20) What are possible reasons for the replacement of a domestic worker hired through a Private Employment Agency (PEA)?

- (a) The domestic worker is found to be suffering from an incurable or contagious disease, or mental illness as certified by a government or a competent physician;

- (b) The domestic worker abandons the job without justifiable cause, voluntarily resigns, commits theft or any other analogous acts prejudicial to the employer or the employer's family; or
- (c) The domestic worker is physically or mentally incapable of discharging the minimum normal requirements of the job, as specified in the employment contract.

Costs accrued for the replacement of a domestic worker should not be at the expense of the employer. In cases where no replacement can be provided, the employer shall be entitled to a refund of 75 percent of the deployment expenses or fees paid to the PEA.



21) What are considered as “unlawful” acts under the *Kasambahay Law*?

- a. Employment of children below 15 years of age;
- b. Withholding of a domestic worker's wages;
- c. Interference in the disposal of the domestic worker's wages;
- d. Requiring domestic worker to make deposits for loss or damage;
- e. Placing a domestic worker under debt bondage; and
- f. Charging another household for tasks temporarily performed by the domestic worker.

22) What are the penalties for violating the provisions of the law?

Unlawful acts are punishable with an administrative fine ranging from PHP10,000 to PHP40,000, as imposed by the DOLE Regional Offices. Under Section 40 of the *Kasambahay Law*, violations of its provisions are penalized by a fine of PHP10,000 to PHP40,000 without prejudice to the filing of appropriate civil or criminal charges by the aggrieved party (Rule XII, Sec. 2).

23) What remedies are available in the event that unlawful acts are committed against a domestic worker?

The aggrieved party may file the appropriate civil or criminal action before the regular courts, such as:

- a) Remedy for abused or exploited domestic worker:

The municipal or city social welfare officer or a social welfare officer from DSWD, in coordination with the concerned barangay officials, is mandated by law to conduct an immediate rescue of abused or exploited domestic workers. The law provides that crimes



or offenses committed by the employer, under the Penal Code and other special penal laws, shall be filed with the regular courts (Article IV, Sec.31 and Article VII, Sec.37).

- b) A domestic worker may seek assistance with regard to non-payment or underpayment of wages and other labour-related concerns. The domestic worker can go to a *Kasambahay* Desk Officer situated in their respective barangays or the nearest DOLE field/provincial/regional office.

24) What is the process involved in settling labour disputes?

A domestic worker may file labour-related complaints at the DOLE Regional Office that has jurisdiction over her place of work. Such complaints or disputes shall first go through the 30-day mandatory conciliation-mediation to exhaust all efforts for settlement (Rule XI, Sec.1).

For unresolved issues, appeals can be referred to the proper DOLE Regional Office, or to the Office of the Secretary of DOLE, whose decision shall be final and executory. Other cases such as ordinary crimes or offenses committed by either party under the Revised Penal Code, and other special penal laws, shall be filed with the appropriate courts (Rule XI, Sec.2).

The domestic workers forced into modern slavery*

A group of domestic workers, led by a Filipino woman living in the UK, are stepping up their demands for the British government to provide new visa laws for 16,000 domestic workers thought to be at serious risk of exploitation and abuse. Justice for Domestic Workers is campaigning to repeal controversial visa laws introduced by the home secretary, Theresa May, which tie domestic workers visas to their employers. It is the same kafala system that operates in Qatar, where the abuse of migrant workers, amounting to forced labour, has been exposed.

“The current system licenses more employers to abuse, exploit and enslave domestic workers,” says J4DW founder Marissa Begonia, who works with hundreds of Asian and African women brought to the UK by foreign employers, and treated poorly, abused or enslaved behind closed doors.

Speaking just days after the shocking revelations that three women had been apparently kept in forced servitude for 30 years in south London, Begonia warns that “tied visas” could be subjecting thousands more to a life of modern slavery.

*<http://www.theguardian.com/society/2013/nov/26/domestic-workers-modern-slavery-visa-laws-tie-employers>, accessed on 7 January 2014.

Endnotes / References

A. Introduction

- 1 From ILO website <http://www.ilo.org/global/topics/domestic-workers/lang--en/index.htm>, accessed January 7, 2014.
- 2 2010 Human Rights Watch, *Slow Reform, Protection of Migrant Domestic Workers in Asia and the Middle East*.
- 3 Irregular and undocumented migrant worker – those who entered the country without going through the formal immigration process or those who overstayed or do not have the appropriate work permit. Available at <http://www.pstalker.com/ilo/d-irregular.html>, accessed 7 January 2014.
- 4 A report published by Human Rights Watch, *As if I Am Not Human: Abuses Against Asian Domestic Workers in Saudi Arabia*.
- 5 Report made by Alastair Sloan in *The Guardian* about domestic workers forced into modern slavery in the United Kingdom.
- 6 Study of Truls Ostbye and Dr. Rahul Malhotra entitled *Female Migrant Domestic Workers Experience Poor Health, Work Conditions*.
- 7 Report by the Women's Aid Organization of Malaysia on *Migrant Domestic Worker Abuse*.

B. Filipino domestic workers at home and abroad: An overview

- 1 This article is culled from the author's paper, "The Local is Global: Advocating for Filipino Domestic Workers' Rights at Home and Abroad," which was presented at the International Conference on Law and Society, Honolulu, 5-8 June 2012. The support of the Law and Society Association, International Research Collaborative Award and Leila Kawar is gratefully acknowledged in the preparation of the paper.
- 2 For details on IPEC, see <http://www.ilo.org/ipec/programme/lang--en/index.htm>.
- 3 In English, *Batas Kasambahay* translates into Law on Domestic (or Household) Workers. "Kasambahay" literally translates into "companion in the house," a more nuanced reference to domestic workers compared to the erstwhile popular term, "katulong" (helper). Note also that from 1999, subsequent versions of the bill used the term domestic or household workers instead of household helpers.
- 4 For details about the Visayan Forum, see <http://www.visayanforum.org>
- 5 RA 10022, passed and enforced in 2010, is the most recent amendment to the Migrant Workers and Overseas Filipinos Act of 1995.
- 6 For details, see <http://www.pmrw.org.ph/>

C. References

Asis, Maruja M.B.2005. "Caring for the World: Filipino Domestic Workers Gone Global," In Huang, S. Yeo, B. Rahman, N. (eds): Asian Women as Transnational Domestic Workers. (Singapore: Marshall and Cavendish Academic), pp 21-53.

Battistella, G. and Asis, M. .2011. "Protecting Filipino Transnational Domestic Workers: Government Regulations and Their Outcomes." Discussion Paper Series 2011-12. Philippine Institute for Development Studies, (Makati City, Philippines). Available at <http://dirp4.pids.gov.ph/ris/dps/pidsdps1112.pdf> [30 Apr. 2013]

Huang, S. , Yeoh, B. Rahman, N. (eds) 2005.Asian Women as Transnational Domestic Workers. (Singapore: Marshall and Cavendish).

Human Rights Watch (HRW). 2008. "As If I Am Not Human" - Abuses against Asian Domestic Workers in Saudi Arabia. (New York, United States of America).

Human Rights Watch (HRW). 2010. Slow reform – Protection of migrant domestic workers in the Middle East and Asia (New York, United States of America)

International Labour Office. 2011a.

"Global and Regional Estimates on Domestic Workers," Domestic Work Policy Brief 4, 27 May 2011,. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_167021.pdf, [30 Apr. 2013].

- 2011b. "Domestic Workers in the Philippines: Profile and Working Conditions," 8 November 2011. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_167021.pdf, [30 Apr 2013].

ILO Manila. 2005. An Analysis of the Situation of the Filipino Domestic Workers. [Manila, Philippines]

International Organization for Migration and Scalabrini Migration Center (IOM and SMC). 2013. Country Migration Report: The Philippines 2013. Available at <http://www.iom.int/files/live/sites/iom/files/Country/docs/CMReport-Philippines-2013.pdf>, [30 Apr. 2013]

Ostbye, T. & Malhotra, R. "Female Migrant Domestic Workers experience poor health, work conditions" in International Journal of Occupational and Environmental Health (2013, July)

D. Frequently Asked Questions Online References

- 1) Department of Labor and Employment, Implementing Rules and Regulations of Republic Act 10361, Otherwise Known as the “Domestic Workers Act or Batas Kasambahay (Accessed 17 January 2014), http://bwc.dole.gov.ph/userfiles/file/IRR_of_domestic_workers_act.pdf
- 2) Department of Labor and Employment, Q&A on Batas Kasambahay (RA No. 10361) http://bwc.dole.gov.ph/userfiles/file/Q_A_on_Batas_Kasambahay.pdf
- 3) International Labor Organization, Convention No. 189 Decent work for domestic workers (Accessed 17 January 2014), http://www.ilo.org/public/libdoc/ilo/2011/111B09_175_engl.pdf
- 4) International Labor Organization, Domestic workers across the world: global and regional statistics and the extent of legal protection / International Labour Office – Geneva: ILO, 2013, 146 p. http://www.ilo.org/public/libdoc/ilo/2013/113B09_2_engl.pdf
- 5) Official Gazette, Republic Act No. 10361, AN ACT INSTITUTING POLICIES FOR THE PROTECTION AND WELFARE OF DOMESTIC WORKERS, (Accessed 17 January 2014), <http://www.gov.ph/2013/01/18/republic-act-no-10361/>

Appendix A

Practical guides for domestic workers

Documents

- Before leaving abroad make sure you have all the necessary documents with you (like visa, passports, employment contract, etc.).
- Your agency should ensure that all your documents are in order before you leave.
- Keep a photocopy of your documents with you.
- Give your family a photocopy of your documents particularly the following:
 1. name of your agency (complete address and contact details);
 2. employment contract;
 3. complete details and contact information of your employer;
 4. OWWA certificate and other necessary information that your family should also know.



Important contacts

It is essential for you to gather information and address of institutions that can provide you with assistance at the destination country. These include:

- Philippine embassy or consulate of your country of work;
- Filipino communities (FILCOM and other organization and groups);
- other organizations and NGOs working with migrants
- religious organizations (church, mosque, etc.).

Cultural information

It is necessary to know and understand the destination country's cultural practices and customs. Although each family is unique, it will be important to know some basic things about the household such as:



- Religious belief and practices;
- home set-up;
- food, how to prepare it and how to serve it;
- family composition and hierarchy;
- attitudes toward children;
- needs of elderly;
- do's and don't's of the culture.

Acquaint yourself with country of destination

- Talk with other migrants who have been there;
- visit the websites about the country;
- watch videos on its cultural practices;
- take advantage of the pre-departure orientation seminar (PDOS) to acquire necessary information that will be useful to you once abroad;
- learn the basic language.

Take care of yourself

- Be sensitive and considerate of the religious practices of the household you are serving even if their beliefs differ from yours.
- Have medicines on hand.
- Be prepared for the country's climate and weather conditions.
- Keep a map of the area. Know your exact location and its distance from the embassy. Know the address of a friend or acquaintance near-est you, as well as important public places.

Specific tips

A) Exploitation, maltreatment, punishment and sexual harassments:

- 1) If at the slightest mistake your employer physically hurts and punishes you, you should report this to your agency immediately.
- 2) If your agency does not act your call, contact the embassy or the POLO (Philippine Overseas Labor Office).
- 3) Sexual harassment and sexual abuse are serious offenses. Report any incident at the first instance to your agency and the embassy immediately, and request for their assistance.

- 4) In case of exploitation (example - no rest; inhumane working condition; extended time of work on a daily basis without proper compensation; working beyond the time agreed in the contract; working for other families; double job, etc.) these should be brought to the attention of the agency, the embassy and POLO.



B) Work related injuries

- Your employer is responsible for your medical expenses and should respect your healing process and recovery. If they disclaim such responsibility then have it reported to your agency or the POLO.

C) Non-payment and withholding of salary

- Domestic workers are entitled to receive their salary on a monthly basis. Report to your agency if your employer is not fulfilling such obligation. If you are not satisfied with the response of your agency, have it change - the case elevated to the embassy or the POLO.



D) When to seek shelter or refuge

- Seeking a place of shelter or refuge should only be used as a last resort if and when all remedies have been exhausted, the working conditions have turned grave and there are serious threats to your well-being. In such cases, be sure to plan things well ahead and do not attempt to escape by jumping from windows of high floors or any other drastic action which could cause severe injuries or even death. Refer to the list of important contacts at your destination country - these institutions would be able to provide you with immediate assistance and temporary shelter.”
- Ask help from people who could be trusted. Social media networks like facebook have been an important means to call attention of the Filipino community (FilCom) or individuals who can reach out to officials of the POLO, embassy and other Philippine-based NGOs.

Online resources or videos for domestic workers:

- 1) Domestic worker realities in Asia
<http://youtu.be/QQnnvQ9Sdtw>
- 2) Migrant domestic workers: Ensuring human rights and making decent work a reality
<http://youtu.be/NhOse6GgMSk>
- 3) Working as domestic workers in Lebanon
- <http://www.youtube.com/watch?v=HGqO-54vdSG8>
- 4) Saudi Arabia - Portal website on the domestic labor program
<http://www.musaned.gov.sa/en/Support/FAQ>
<https://drive.google.com/file/d/0BwCfoJni7fhHSGs2djlRM1fcdg/edit?usp=sharing>



Appendix B - Forms

1) Sample of service contract - Form BK-1

Service Contract for Domestic Work

This service contract is agreed upon between:

A. Name of Employer: _____

Home Address and Telephone: _____

B. Name of Domestic Worker: _____

Civil Status: _____ Age: _____

Address and Telephone: _____

Both Employer and Domestic worker agree on the following terms and conditions:

1. Address of work _____
(Not allowed to work or be assigned with commercial industrial or agricultural enterprise)
2. Length/Period of work: From - until _____
3. Nature of work _____ (Maid, cook, gardener, laundry, etc)
4. Duties of responsibilities
 - a. _____
 - b. _____
 - c. _____
5. Time of work: _____
(For domestic worker aged 15 – 17 they are prohibited to work more than eight (8) hours a day or 40 hours in a week and in between 10PM-6PM.)
6. Weekly rest period _____
7. Wage/Salary:
 - a. Amount of monthly wage (cash): _____
 - b. Additional wage for overtime work: _____
(Amount of wage per hour of work)
 - c. Schedule of wage release: _____
(Monthly salary date)
8. Allowed salary deductions: _____
(Include contributions to PhilHealth, Pag-IBIG, SSS, if salary is PhP5,000.00 or higher)

9. Benefits:
a. Yearly 5 days leave with pay (should be used)
b. First-aid assistance if ill
10. Other benefits : _____
11. Agreement on salary loan if any: _____
12. Agreement regarding deployment expenses, if any: _____

(Any incurred expenses in the deployment can be recovered back by the employer if the domestic worker did not stay and work for at least six (6) months.)
13. Agreement regarding termination of work service contract _____
14. Payment at the end/termination of work service contract _____
(Fifteen 15 days of work - salary should be paid to domestic worker if s/he was removed from work without justification/arbitrarily at the start of work.)
15. Other agreements if any: _____
16. If the terms of agreement has ended the contract could be automatically renewed and effective if the domestic worker decides to continue work with his/her current employer.)
17. If both parties are in conflict or could not agree on terms, the help of the barangay should be sought to facilitate reaching an agreement. However if it is not possible, the case should be elevated to DOLE-Regional/Provincial/Field Office, where the place of work of the domestic worker is nearest.
18. Any changes in this agreement can only be effective if it was agreed upon or there's a written document signed by both parties.

The Employer promises to provide the Domestic Worker all the benefits provided for by law.

The Employer and Domestic Worker voluntarily agrees to the terms and conditions set forth in this contract.

(Name and signature of Employer)

(Name and signature of Domestic Worker)

(Date)

(Date)

(Witness)

(Witness)

2) Sample of pay slip - Form BK-2

PAY SLIP

Name: _____ Date : _____

Pay period: _____

Basic Wage	Php2,500.00	
Gross Salary		Php2,500.00
Less:		
SSS contribution	0.00	
PhilHealth contribution	0.00	
Pag-IBIG Contribution	0.00	
Others		
Total deductions		0.00
Take Home Pay		Php2,500.00

I agree with the above wage computation and acknowledge receipt of the same.

Signature of Kasambahay

(NOTE: For monthly wage rate of less than Php5,000.00, the employer should not deduct premium contributions on SSS, PhilHealth and Pag-IBIG from the Kasambahay since the same are charged to the employer.)

3) Sample certificate of employment - Form BK-3

Date _____

Certificate of Employment

To Whom It May Concern:

This is to certify that Mr./Ms. _____
has been employed with me as *Kasambahay* doing general ordinary household chores for
5 years from _____ to _____ .

This certification is being issued upon his/her request for whatever purpose it may
serve.

Employer

Appendix C - Domestic Workers Act Infographics

(with permission from GMA Online News)

Batas Kasambahay / Domestic Workers Act (Republic Act no. 10361)

“KASAMBAHAY” taong nangangamuhan upang gampanan ang mga pantahananang gawain, gaya ng mga sumusunod:



Hindi saklaw ng batas na lito ang mga taong paminsan-minsan o panaka-naka lang ang serbisyo bilang kasambahay ("on an occupational basis"; i.e. isang janitress na ume-extra bilang labandera sa kaniyang day-off), mga family drivers, at mga batang nasa foster family arrangement.



Labag din sa batas ang pagkuha ng kasambahay na babata pa sa 15 taong gulang.

Ang Kasambahay na wala pang **18 taong gulang** ay itinuturing na **working child**.

HIRING PAPERWORK

Dapat magkaroon ng **kasulatan sa pagitan ng amo at ng kasambahay** bago lito magsimula ng trabaho.



Nakasulat dapat ang kontrata sa salita o dialektong mauunawaan ng magkabilang panig. Dapat nakasaad dito ang mga detalye gaya ng:

- Obligasyon at responsibilidad ng kasambahay
- Panahon at tagal ng pag-upa o empley
- Suweldo (at mga kaltas na pinahihintulutan ng batas; i.e. SSS, PhilHealth)
- Oras ng trabaho at dagdag na sahod kung lumampas sa takdang oras ng trabaho

The employer may ask the Kasambahay to submit the following **pre-employment requirements**:



Medical certificate / health certificate issued by the local government health officer



Barangay and police clearance



National Bureau of Investigation (NBI) clearance



Birth certificate, or any document showing the age of the domestic worker (i.e. voter's ID, baptismal record, passport)

These are standard requirements when employment is coursed through a Private Employment Agency (PEA).



The employer or agency shall shoulder all the fees.



The employer shall register the Kasambahay in the Registry of Domestic Workers in his/her barangay.



COMPENSATION

Minimum Wage

National Capital Region (NCR)	₱ 2,500	Chartered cities and first-class municipalities	₱ 2,000	Other municipalities	₱ 1,500
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The payment shall be made in **cash** given directly to the Kasambahay.



The employer cannot make any deductions that are not mandated by the law, or that have not been previously agreed upon in writing.



13TH MONTH

The Kasambahay is entitled to **13th-month pay**.



The employer must provide the Kasambahay with a pay slip that indicates the amount paid and deductions made, if any.

RIGHTS AND PRIVILEGES

The employer must provide the Kasambahay with **basic necessities** including



The Kasambahay shall be entitled to an aggregate rest period of 8 hours a day, plus one rest day a week.



The employer shall also give the Kasambahay an opportunity to finish basic education, and if possible, access to alternative learning systems and higher education or technical and vocational training.

BENEFITS



A Kasambahay that has served for at least 1 month shall be covered by the following:

- Social Security System (SSS)
- Philippine Health Insurance Corporation (PhilHealth)
- Home Development Mutual Fund (Pag-IBIG)



Upon completing 1 year of service, a Kasambahay shall be entitled to an annual incentive leave of 5 days with pay.

Said annual leave cannot be carried over to succeeding years or converted to cash.



If the Kasambahay receives a monthly salary of less than ₱5,000, the employer shall shoulder the premium payments or contributions.

TERMINATION OF SERVICE



The Kasambahay and the Employer may agree in writing to pre-terminate the contract.



The notice must be given 5 days before the intended termination of service.



The Employer shall issue the Kasambahay a certificate of employment that indicates the nature and duration of service and work performance.



If the Kasambahay is unjustly dismissed, the employer must pay compensation already earned plus an equivalent of 15 days work.



If the Kasambahay leaves without justifiable reason, unpaid salary due to an equivalent 15 days of work shall be forfeited.



The Employer may also claim costs incurred related to the deployment expenses if the service is terminated within 6 months from the Kasambahay's employment.

The Kasambahay may terminate the employment relationship before the expiration of the contract if he/she has been subjected to instances that may include:



Verbal or emotional abuse by the employer or any member of the household



Physical abuse



A crime or offense



Violation of contract by the employer



Any disease that may harm the Kasambahay and/or the employer and other members of the household

The Employer may terminate the services of the Kasambahay prior to the expiration of the contract in circumstances that may include:



Misconduct or willful disobedience



Kasambahay's habitual neglect or inefficiency in carrying out duties



Fraud



Crime or offense committed by the Kasambahay against the employer or any immediate member of his family



Violation of the employment contract

PENALTIES

First offense
₱10,000

Second offense
₱20,000

Third offense
₱30,000

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PHILIPPINE MIGRANTS RIGHTS WATCH

The Philippine Migrants Rights Watch (PMRW) is a civil society network established in 1995 and registered in 2011 to encourage the recognition, protection and fulfillment of overseas Filipinos' rights. It is a member of the Overseas Land-based Tripartite Consultative Council (OLTCC) of the Department of Labor and Employment (DOLE) and the International NGO Platform on the Migrant Workers' Convention (IPMWC).

Members

- Apostleship of the Sea – Manila (AOS-Manila)
- Center for Migrant Advocacy (CMA-Phils)
- Development Action for Women Network (DAWN)
- Episcopal Commission for the Pastoral Care of Migrants and Itinerant People - Catholic Bishops' Conference of the Philippines (ECMI-CBCP)
- Scalabrini Center for People on the Move (SCPM)
- Scalabrini Lay Association (SLA)
- Scalabrini Migration Center (SMC)

Associate Members

- International Catholic Migration Commission(ICMC), Geneva
- Martin De Rada Human Rights Bureau, University of San Agustin, Iloilo City
- Migrant Workers' Concern Desk (MWCD), Taiwan
- MOYSE, Korea
- Scalabrini International Migration Institute, Italy
- Seoul Archdiocesan Labor Pastoral Commission, Korea
- Stella Maris International Service Center, Taiwan

Domestic work is a valuable, but often unrecognized contribution to the well-being of families and to the functioning of economy and society. Often performed by family members, particularly women, it is neither recognized as a formal component of the economy nor properly compensated. When done by hired labour, it is often not included in the labour laws of the country. Therefore, domestic workers do not enjoy the full protection of labour laws and they are often underpaid and asked to work extra time.

In order to better inform domestic workers of their rights, the Philippine Migrants Rights Watch (PMRW), with the support of the International Labour Organization's ASEAN TRIANGLE Project through funds from the government of Canada, has developed this educational booklet on Convention No. 189 on Decent Work for Domestic Workers and RA 10361 otherwise known as *Batas Kasambahay* or Domestic Workers Law.

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