

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

FIFTEENTH CONGRESS
First Regular Session

House Bill No. 1140

Introduced by Representatives
DIOSDADO MACAPAGAL ARROYO and GLORIA MACAPAGAL ARROYO

AN ACT
ESTABLISHING A MAGNA CARTA FOR THE KASAMBAHAY,
AMENDING FOR THIS PURPOSE, BOOK III, ARTICLES 141-152 OF
PRESIDENTIAL DECREE NO. 442, AS AMENDED, OTHERWISE
KNOWN AS "THE LABOR CODE OF THE PHILIPPINES"

EXPLANATORY NOTE

Filipinos oftentimes depend on the services of domestic house helpers for the orderly management of their households. Unfortunately, even if they perform vital day-to-day functions, domestic house helpers are often mistreated, subjected to physical and mental abuse and made to work under inhuman and brutal working conditions.

Although there are existing labor laws which seek to protect house helpers from these abuses, their implementation has been widely ignored. Moreover, these laws have become inadequate to fully address the concerns and needs of our house helpers.

With this mind, we are proposing the enactment of this Bill to serve as a Magna Carta for the Kasambahay. It is therefore hoped that with the introduction of this Bill, domestic house helpers will be sufficiently protected from such abuses which are perpetrated against them by their unscrupulous employers, and at the same time, guarantee them the enjoyment of their fundamental rights.

In view of the paramount significance of this Bill, we earnestly urge our colleagues to work for its immediate passage.


DIOSDADO MACAPAGAL ARROYO
Second District, Camarines Sur


GLORIA MACAPAGAL ARROYO
Second District, Pampanga

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*Be it enacted by the Senate and House of Representatives of the
Philippines in Congress assembled:*

ARTICLE 1
TITLE, POLICIES, PRINCIPLES AND DEFINITION OF TERMS

SECTION 1. *Short Title.*--- This Act shall be known and cited as the "Magna Carta for the Kasambahay 2010."

SECTION 2. *Declaration of Policies.*--- The State strongly affirms labor as a primary social force and is committed to protect the rights of workers and to promote their welfare. The State is likewise steadfast in its campaign to eliminate forced labor, discrimination in employment and occupation and to abolish incidence of child labor and trafficking in persons especially in women.

To accomplish these goals, the State has adopted the Decent Work Framework which outlines reasonable and internationally acceptable work conditions for Filipino workers including *kasambahays* as well as the establishment of decent labor standards, employment and income, enhanced coverage of social protection and strengthened social dialogue.

The State is a staunch advocate of the rights of *kasambahays* and is to protect them from abuse and exploitation by providing safe and humane working conditions. Despite the vital and necessary work performed by *kasambahays* for most Filipino households and the important role they play in society, they are considered as one of the most vulnerable sectors in society due to the nature of their work. Of equal concern however, are employers of *kasambahays* who have equal rights to protection from abuse and exploitation of *kasambahays*.

The State further recognizes that *kasambahays* of minority age have special inalienable rights and privileges that should be espoused and protected, particularly in the areas of education and self-improvement.

The State recognizes the importance with various groups and individuals in the promotion and protection of the rights and welfare of *kasambahays* and enabling to be empowered members of society.

Section 3. *Definition of terms.* – [Article 141 of Presidential Decree 442, as amended, otherwise known as the Labor Code of the Philippines” is hereby amended to read as follows:

“Article 141. Coverage – This Chapter shall apply to all persons rendering services in household for compensation.

“Domestic (or household service) Helper,” “Household helpers,” or “Kasambahay” refer to any person, who renders domestic or household services, under a full-time basis for compensation, to a homeowner/employer undertaking tasks ascribed as normal household chores within a specific household. The term includes maids, cooks, houseboys, family drivers and “yayas” who provide daily service to a specific household, either on a live-in or live-out basis.”]

For purposes of this Act, the following terms shall mean:

- a) “Batang-kasambahay” – Children below eighteen years of age employed as *kasambahay*.
- b) “Employer” – shall refer to any person who engages the services of the *kasambahay* for household work and/or is party to the employment contract.
- c) “Household” – an aggregate of persons generally but not necessarily bound by ties of kinship, who sleep in the same dwelling unit and have common arrangements for the preparation and consumption of food.
- d) “Household work” – refers to tasks performed by the *kasambahay* as specified in the employment contract.

- e) "Hazardous work" – refers to any activity or circumstance where the *kasambahay* is exposed to risk which constitutes an imminent danger to his or her safety, health or morals.
- f) "Wages" – adopt official definition of wages, to be provided by NWPC.
- g) "Board and lodging" – shall refer to food and shelter which shall be afforded to the *kasambahay* free of charge and nondeductible to his or her wage.

ARTICLE 2 RIGHTS OF THE KASAMBAHAY

The *kasambahay* has the right to decent work which includes decent employment and income, humane conditions of work, access to and coverage in social protection schemes, and the opportunity for social dialogue and representation.

Section 5. *Right to just and humane conditions of work.* The *kasambahay* has the right to a safe and healthy work environment, continuous (sufficient) rest periods, time for recreation and leisure.

Section 6. *Right to just and humane treatment.* The *kasambahay* is entitled to be treated free from any physical or psychological violence, or any other act which debases, degrades or demeans the intrinsic worth and dignity of the *kasambahay* as a human being be used upon the latter.

Section 7. *Right against involuntary servitude, debt bondage and trafficking.* The *kasambahay* shall have the right to refuse or deny his or her services to work or tasks not stipulated in the employment contract.

In case the *kasambahay* agrees to work in industrial undertakings and perform work or task for the service or benefit of another household, he or she shall be entitled to applicable wage or just compensation respectively.

Section 8. *Right to social protection.* The *kasambahay* shall be covered by the Social Security System (SSS) and be entitled to all the benefits provided under Republic Act No. 8282, as amended. The employers of said *kasambahay* shall pay for the employer's share of the SSS contributions without deducting the same from the monthly compensation of the *kasambahay*. The *kasambahay* shall also pay for the employee's share of the SSS contributions.

[A new provision, Article 148-A is hereby inserted to read as follows:

"Art. 148-A. Membership in the Philippine Health Insurance Corporation (PhilHealth). All house helpers shall be covered by the Philippine Health Insurance Corporation (PhilHealth) in accordance with the guideline and entitled to all the benefits provided by law."]

Section 9. *Right to privacy.* The *kasambahay* shall have the right to privacy during his/her rest periods. The *kasambahay's* right to privacy shall extend to any and all forms of personal communications.

[Section 10. *Right to minimum wage.* Subparagraphs (1), (2) and (3), Article 143 of Presidential Decree No. 442, as amended, are hereby amended and renumbered to read as follows:

"Art 143 (A) Minimum Wage. (a) House helpers or Domestic helpers, as defined under this Act, shall be paid the following minimum wage rates:

- (1) Three thousand pesos (P3,000.00) a month for house helpers employed in the National Capital region (NCR);
- (2) Two thousand pesos (P2,000.00) a month for those employed in other chartered cities and first class municipalities; and
- (3) One thousand pesos (1,000.00) a month for those in other municipalities.

Provided, that those house helpers who are receiving at least One thousand pesos (P1,000.00) shall be covered by the Social Security System (SSS) and be entitled to all the benefits provided hereunder.

The Regional Tripartite Wages and Productivity Boards (RTWPBs) may determine, and adjust, from time to time appropriate minimum wage rates or household or domestic helpers."

Art. 143 (B) *Payment of wages.* – Payment wages shall be made directly to the domestic worker to whom they are due in cash, at least twice a month. The employer, unless allowed by the domestic worker through a written consent, shall make no deductions from his/her wages other than that which is mandated by law. No employer shall pay the wages of a domestic worker by means of promissory notes, vouchers, coupons, tokens, tickets, chits or any object other than the cash wage provided for under this act.

Art. 143 (C) *Pay Slip.* – All employers are mandated at all times to provide their domestic worker with a copy of their pay slip which shall contain the amount paid in cash by the employer to the domestic worker every pay day, as prescribed

under this act. The copies of the pay slip must be kept by the employer for a period of three (3) years.

Art. 143 (D) *Place of payment.* – Payment of wages shall be made at or near the place of undertaking, except as otherwise provided by such regulations as the Secretary of Labor may prescribe under conditions to ensure protection of wages.

Art. 143 (E) *Prohibition or interference in disposal of wages.* – No employer shall limit or otherwise interfere with the freedom of any domestic worker to dispose his/her wages. The employer shall not in any manner force, compel, or oblige the domestic worker to purchase merchandise, commodities or other properties from the employers or from any other person, or otherwise make use of any store or services of such employer or any other person.

Art. 143 (F) *Prohibition against withholding of wages.* – It shall be unlawful for an employer; directly or indirectly, to withhold any amount from the wages of the domestic worker or induce him/her to give up any part of his/her wages by force, stealth, intimidation, threat or any other means whatsoever.

Art. 143 (G) *Prohibition on deposits for loss or damage.* – No employer shall require his/her domestic worker to make deposits from which deductions shall be made for the reimbursement of loss or damage to tools, materials, furniture and equipment in the household.]

Section 11. *Right to free board, lodging and medical attendance.* The Employer shall furnish the house helper free of charge suitable and sanitary living quarters as well as adequate food and medical attendance.

Every employer shall keep his/her household such first-aid medicines and equipment as the nature and conditions of domestic work may require, in accordance with the rules and regulations that will be prescribed by the Department of Labor and Employment (DOLE), in accordance with the provision of this act.

Section 12. *Right to access educational opportunities.* The *kasambahay* has the right to access opportunities for education and training to upgrade their skills and improve the services they provide to their employers.

Section 13. *Right to self-organization.* The *kasambahay* shall have the right to form or join association or societies for purposes not contrary to law.

Section 14. *Right to redress grievance.* The *kasambahay* shall have the right to redress grievance and to the expeditious settlement of disputes.

Section 15. *Right to worship.*

Section 16. *Right to access to information.*

All other rights not specified herein but guaranteed by the Constitution are affirmed and shall be equally afforded to the *kasambahay*.

ARTICLE 3
LABOR STANDARDS FOR THE KASAMBAHAY

Section 17. [Article 142 of P.D. 442, as amended is hereby amended and renumbered to read as follows:

"Art. 142 (A) *Contract of domestic service.* All household working arrangements or agreements shall be covered by a written employment contract, in a language or dialect understood by both employer and household helper, duly signed by both contracting parties. Each contracting party shall be provided with a complete set of the duly signed contract of service which shall include the following:

- (a) Period of employment, which shall not exceed two (2) years;
- (b) Monthly compensation and mode of payment
- (c) Annual salary increase
- (d) Working hours and day-off schedule; and
- (e) Living quarters or sleeping arrangement

Art. 142 (B). *Medical certificate, police clearance, NBI clearance, barangay clearance and birth certificate as prerequisites for employment.* As prerequisites for employment in domestic work, all prospective applicants should secure the following documents:

- (a) Medical certificate attesting to the physical and mental illness of the domestic worker to be secured from a licensed physician;
- (b) NBI clearance;
- (c) Barangay clearance; and
- (d) Duly authenticated birth certificate from the National Statistics Office (NSO).]

17 (b) *Rest periods and day-off.* The employer shall provide the *kasambahay* a daily rest period of at least 8 hours and a weekly rest period of at least (24) consecutive hours after six (6) consecutive normal work days.

The employer and the *kasambahay* shall agree in writing the schedule of the weekly rest day of the *kasambahay*. However, the employer shall respect the preference of employees as to their weekly rest day when such preference is based on religious grounds.

17 (c) *Deductions*. Unless mutually agreed upon by the *kasambahay* and his or her employer, no deductions from the pay shall be made, other than those authorized by law including wage advances, subject to the agreement between the employer and the *kasambahay* on the amount of deductions per payday.

17 (d) [Article 148 of P.D. No. 442, as amended, is hereby amended to read as follows:

"Art. 148. Board, lodging and medical attendance. – The employer shall furnish the house helper free of charge suitable and sanitary living quarters as well as adequate food and medical attendance.

Every employer shall keep his/her household such first-aid medicines and equipment as the nature and conditions of domestic work may require, in accordance with the rules and regulations that will be prescribed by the Department of Labor and Employment (DOLE), in accordance with the provision of this Act."]

17 (e) *Termination of employment*. The causes and conditions of termination to be stipulated in the employment contract shall be in accordance with Sections 27, 28, and 29 of this Act.

17 (f) Accountabilities acceptable to both parties and conditions to maintain harmonious relations in carrying out and safeguarding said accountabilities.

In the event that the provisions of the employment contract could not sufficiently guaranty the basic rights of both parties, the provisions of this law shall serve in suppletory manner.

Section 18. *13th Month Pay*. The *kasambahay* shall be entitled to a thirteenth (13th) month pay equivalent to the existing minimum wage.

Section 19. *Assignment to Non-Household Work*. No *kasambahay* shall be assigned to work in commercial, industrial or agricultural enterprise at a wage or salary rate lower than that provided for agricultural or non-agricultural workers as prescribed therein.

Section 20. *Prohibition on the use of services of household workers in places other than their legitimate workplace*. It shall be unlawful for any individual, entity or institution to engage the services of the *kasambahay* without a valid contract.

Section 21. *(All female kasambahays shall be entitled to a maternity leave benefit pursuant to Section 14 A of R.A. 8282, otherwise known as Social Security Act of 1997)*. A female member who has paid at least three (3) monthly

contributions in the twelve-month period immediately preceding the semester of her childbirth or miscarriage shall be paid a daily maternity benefit equivalent to one hundred percent (100%) of her average daily salary credit for sixty (60) days or seventy-eight (78) days in case of a caesarian delivery, subject to the following conditions:

- (a) That the employer shall have notified her employer of her pregnancy and the probable date of her childbirth, which notice shall be transmitted to the Social Security System (SSS) in accordance with the rules and regulations it may provide.
- (b) The full payment shall be advanced by the employer within thirty (30) days from the filing of the maternity leave application;
- (c) That payment of daily maternity benefits shall be a bar to the recovery of sickness benefits provided by this Act for the same period for which daily maternity benefits have been received;
- (d) That the SSS shall immediately reimburse the employer one hundred (100%) of the amount of maternity benefits advanced to the employee by the employer upon receipt of satisfactory proof of such payment and legality thereof; and
- (e) That if an employee member should give birth or suffer miscarriage without the required contributions having been remitted for her by her employer to the SSS, or without the latter having been previously notified by the employer of the time of the pregnancy, the employer shall pay to the SSS damages equivalent to the benefits which said employer member would otherwise have been entitled to.

Section 22. *Paternity Leave.* All married male *kasambahay* shall be entitled to a paternity leave of seven (7) days pursuant to the provisions of R.A. 8187 of the Paternity Leave Act of 1997.

Section 23. *Vacation Leave.* The *kasambahay* shall be entitled to a minimum five (5) days vacation leave with pay.

Section 24. *Salary increase and/or other benefits.* Salary increase and/or other benefits may be granted by the employer based upon internal and mutual agreement by both parties pursuant to existing laws, rules and regulations.

Section 25. *Indemnity for Unjust Termination of Services.* If the period of household service is fixed, neither the employer nor the *kasambahay* may terminate the contract before the expiration of the term, except for a just cause.

Section 26. *Service of Termination Notice.* If the duration of the household service is not determined either in stipulation or by the nature of the service, the employer or the *kasambahay* may give notice to put an end to the relationship five (5) days before the intended termination of the service.

- (a) The employer may disregard the five (5) day notice and immediately cause the termination of the service of the *kasambahay*, provided that the employer pays the salary due him or her.
- (b) The *kasambahay* may, prior to the expiration of contract, put an end to the employer-*kasambahay* relationship, by outing the employer on notice at least five (5) days in advance.

Section 27. *Termination indicated by the Kasambahay.* The *kasambahay* may unilaterally terminate the relationship without serving any notice on the employer for any of the following just causes:

- (a) Serious insult by the employer or any of his or her immediate household on the honor and person of the *kasambahay*;
- (b) Inhuman and unbearable treatment accorded to the *kasambahay* by the employer or any of his or her immediate household;
- (c) Commission of a crime or offense by the employer or any of his or her immediate household against the *kasambahay*;
- (d) Other causes analogous to any of the foregoing.

Section 28. *Termination by employer.* An employer may terminate an employment for any of the following causes without serving any notice:

- (a) serious misconduct or willful disobedience by the *kasambahay* of the lawful order of his employer in connection with his/her work;
- (b) gross or habitual neglect by the *kasambahay* of his duties;
- (c) fraud or willful breach by the *kasambahay* of the trust reposed in him by his employer.
- (d) Commission of a crime or offense by the *kasambahay* against the person of his employer or any immediate member of his family; and
- (e) Other causes analogous to the foregoing.

Section 29. *Disease as a ground for Termination.* An employer may terminate the services of a *kasambahay* who has been found to be suffering from any

disease and whose continued employment is prejudicial to his health as well as to the health of his or her employers and household members.

Section 30. Article 151 of P.D. No. 442, as amended, is hereby amended to read as follows:

"Art. 151 (A). Employment Certification – Upon the severance of the household service relation, the employer shall give the house helper/domestic worker a written employment certification indicating the nature, duration of the service, work performance, efficiency and conduct as house helper/domestic worker."

Section 31. "Art. 151 (B). Employer's reportorial duties. Every employer of domestic worker is mandated to keep the following record to reflect the actual terms and conditions of employment his/hr domestic worker for a period of three (3) years after the domestic worker has left the services of the employer for purposes of documentation:

- (a) A register of all domestic worker employed by him/her, indicating the dates of their birth;
- (b) A separate file for their employment contract and employment certificate;
- (c) A separate file for their police clearance, NBI clearance and barangay clearance; and
- (d) A separate file for their medical certificates.

It shall be unlawful for any employer to make any report, or record filed or kept pursuant to the provision of this act knowing such statement, report or record to be false in any material respect."]

Section 32. *Prohibition on the employment of Batang Kasambahay.* Consistent with Republic Act 9231, the employment of batang *kasambahay* is hereby prohibited. In no case shall children of *kasambahay*, below 18 years of age, be suffered to work as *kasambahay*.

Pursuant to this policy, the LGU in cooperation with the DOLE, DSWD, DepEd, DILG, other concerned government agencies, and all other stakeholders, shall endeavor to implement appropriate measures for the eradication of child domestic work. Such measures shall include but not limited to access to appropriate education and training, alternative livelihood and employment for their families, rescue, healing and reintegration services.

ARTICLE 4 THE ROLE OF GOVERNMENT ENTITIES IN THE DELIVERY OF PROGRAM AND SERVICES

Section 33. *Role of LGUs.* Local government units (LGUs) shall facilitate access of *kasambahays* to all existing programs and services. The LGUs, through their local development plans, shall prioritize concerns regarding *kasambahays* and develop and implement plans and programs in support of this law.

The LGUs shall establish a registration system for the mutual protection of the *kasambahay* and his or her employer, effective information and monitoring of the employment of the *kasambahay*. (Will be included as a priority activity of the LGUs in the IRR)

Section 34. *Support Institutions*

- (a) *Role of the Department of Interior and Local Government.* The DILG shall oversee and provide technical assistance to ensure the implementation of LGU on the *kasambahay* programs and services. The DILG shall be responsible for the continuous upgrading and enhancement of the knowledge and skills of barangays to assume their assigned responsibilities under this Act.
- (b) *Role of the Department of Labor and Employment.* The DOLE shall be responsible for the continuous enhancement of standards for the employment and welfare of *kasambahays*. Towards this end, the DOLE shall also provide a venue for the continuous dialogue between and among stakeholders and domestic workers. It shall also conduct trainings and seminars on improving working conditions in the households, occupational safety and health, labor education and livelihood development. It shall also provide employment facilitation services for the *kasambahay*.
- (c) *Role of the Department of Social Welfare and Development.* The DSWD shall institute a program designed specifically to provide emergency services to the *kasambahay* in need of custody, shelter, healing or legal, medical, psychological and rehabilitative services.
- (d) *Role of the Department of Education.* The DepEd shall develop and administer equivalency test and alternative educational programs for the accreditation of educational qualification of the *kasambahays*. The DepEd shall work with LGUs in establishing and strengthening special education programs including capacity-building for instructional managers.

- (e) *Role of the Technical Education Skills and Development Authority.* The TESDA shall be responsible for the continuous enhancement of training regulations which will serve as the basis for the development of curricula, registration and delivery of training programs for *kasambahays*. It shall also be responsible for the development and administration of assessment and certification of *kasambahays*.
- (f) *Role of the Philippine National Police.* The PNP shall coordinate with LGUs, DSWD and other relevant agencies in conducting rescue operations for abused *kasambahays*. The PNP shall also be consulted for existing mechanisms on how to assist abused *kasambahays*.
- (g) *Role of NGOs and other groups.* Non-government organizations and other groups shall equally contribute to the delivery of programs and services to be provided by government offices as prescribed in this law.

ARTICLE 5 SETTLEMENT OF DISPUTES

A mechanism for settlement of disputes arising from the employment contract is hereby prescribed as follows:

Section 35. *Barangay as Primary Resort in Settling Disputes.* The barangays shall serve as the primary resort in settling disputes and shall render conciliation and mediation services in disputes.

Section 36. *Role of the Department of Labor and Employment.* The DOLE shall take cognizance of disputes arising from the employment of *kasambahays* for any violation of the labor standards provisions hereof, only upon the exhaustion of conciliation and mediation at the level of the barangay.

Section 37. *Role of the National Labor Relations Commission.* The NLRC shall assume jurisdiction on disputes arising from employment of *kasambahays* over cases which it has original and exclusive jurisdiction, only upon the exhaustion of conciliation and mediation at the level of the barangay.

Section 38. *Role of the Courts.* Regular courts which have exclusive and original jurisdiction of cases other than disputes arising from the employment of *kasambahays* shall take cognizance only after prior recourse in the barangay level has been exhausted.

ARTICLE 6 MISCELLANEOUS PROVISIONS

Section 39. *Implementing Rules and Regulations.* The Department of Interior and Local Government and the Department of Labor and Employment, in collaboration with other government agencies charged with the implementation of the provisions of this Act shall, within a period of one (1) year from the date of its effectivity, promulgate the necessary implementing rules and regulations.

Section 40. *Araw ng mga Kasambahay.* The date upon which the President shall approve the *Batas Kasambahay* will be designated as the "Araw ng mga Kasambahay."

Section 41. *Non-diminution clause.* Nothing in this Act shall be construed to cause the diminution or substitution of any benefits and privileges currently enjoyed by the *kasambahay*. All existing arrangements between employer and the *kasambahay* shall conform to the minimum standards set by this *Batas Kasambahay* within a period of sixty (60) days upon effectivity of this Act.

Section 42. *Penal Provisions.* Provided, however, that if the *kasambahay* happens to be a relative, the provision of this Act shall equally apply provided violation for section 32.

Violation of any of the provision of this Act shall be punishable with a fine of not less than Ten Thousand Pesos (Php 10,000.00) but not more than Forty Thousand Pesos (Php 40,000.00), or imprisonment of not less than six (6) months but not more than three (3) years, upon the discretion of the court.

Section 43. *Immunity of social workers.* Article 143 paragraph (c) and (d) of PD 442 as amended is hereby expressly repealed. All laws, decrees, presidential issuances, executive orders, rules and regulations or parts thereof not consistent with the provisions of this Act are hereby amended, repealed or modified accordingly.

Section 44. *Separability Clause.* If any provision or part of this Act, or the application thereof to any person or circumstance be held unconstitutional or be declared invalid, the remainder of this Act shall not be affected thereby.

Section 45. *Effectivity Clause.* This *Batas Kasambahay* shall take effect fifteen (15) days following the completion of its publication in the Official Gazette or in two (2) newspapers of general circulation.

Approved,