

Ethical Guidelines on the Employment of Domestic Workers

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Background

In July 2005, the Employers' Confederation of the Philippines (ECOP) held a nationwide consultation on the issues and concerns of Filipino domestic workers employed in the Philippines. The roundtable discussions in Luzon, Visayas, and Mindanao focused on the situation of the workers in reference to their access to *decent living standards* and *social protection*.

In September 2005, ECOP held a follow-up focused group discussion on Senate Bill 1772: Domestic Workers Bill, otherwise known as the Kasambahay Bill, authored by Senator Jinggoy Estrada.

Last March 8, 2006, ECOP conducted the final consultation workshop in Naga City through a Round Table Discussion and presentation of the "Expanding Social Protection to the Filipino Domestic Workers" paper. Highlights of the discussion include the presentation of the plight of the Filipino Domestic Workers and their quest for an adequate and decent standard of living, snapshots of the current situations, presentation of salient points on the pending Kasambahay Bill and the employers' contribution to the development of set of ethical guidelines in hiring and employment of domestic workers.

On March 10, 2006, ECOP presented the Employers Ethical Guidelines in the Hiring and Employment of Domestic Workers at the ECOP-CSR committee as part of the validation process.

These Ethical Guidelines consolidate the position of ECOP regarding the employment of domestic workers, based on the roundtable discussions in July, September 2005, March 2006, as well as other relevant positions of the organization.

The Guidelines established the issues of domestic workers as requiring a tripartite approach, with local government and civil society playing a critical role, and the responsibility to promote and protect the rights of domestic workers incumbent not only on the domestic workers, but as well on the employers.

Overarching framework

These Ethical Guidelines affirm the rights and welfare of domestic workers as stipulated under the following laws, rules, regulations, guidelines, and resolutions:

- Labor Code of the Philippines, Presidential Decree No. 442, as amended, Book III, Title III, Chapter III, entitled "Employment of Househelpers"
- Republic Act No. 7655 –Minimum wage for househelpers Act of 1993
- The Civil Code
- Rules and regulations governing private recruitment and placement agency for local employment.
- Republic Act No. 8042 - Migrant workers and overseas Filipinos Act of 1995
- Republic Act 9208 - Anti-trafficking in persons Act of 2003
- The Revised Penal Code on the laws against slavery and debt bondage

- Republic Act No. 9262 - Anti-Violence against women and their children Act of 2004
- ILO Conventions 87 and 98 on freedom of association and the right to collective bargaining
- ILO Conventions 29 and 105 on the elimination of forced labor
- ILO Conventions 100 and 111 on the elimination of discrimination in employment and occupation
- ILO Conventions 138 and 182 on the abolition of child labor

Preamble

Whereas, the Employers' Confederation of the Philippines (ECOP) recognizes the contribution of domestic workers to Filipino family life, to the Philippine economy, and to the Philippine social support system;

Whereas, ECOP recognizes that domestic workers, by the very nature of their duties, are part and parcel of the Filipino family and contribute to building the basic institution of society;

Whereas, ECOP upholds the dignity and rights of domestic workers as human beings and as members of the work force;

Now therefore, for and in consideration of the foregoing, ECOP resolves to respect, uphold, and promote the following rights of domestic workers:

- The right to full access and non-discrimination in the access to minimum wage, work hours, sickness and maternity pay, social protection, and other terms and conditions of employment as mandated by law;
- The right to change employers, subject to established and reasonable practice relating to prior notice, just cause, and other procedures in the termination or separation from employment;
- The right to severance pay as mandated by law;
- **The right to a contract of employment**
- The right to a legally enforceable contract of employment, whenever applicable and when such contract is existent, and provided that said contract is not contrary to law;
- The right to work free from fear of physical, sexual, or psychological abuse;
- The right to free association;
- The right to live and work free from discrimination;
- The right to personal and leisure time;

Furthermore, ECOP commits to undertake, for the furtherance of the welfare and development of domestic workers, the following actions:

- To affirm the rights of domestic workers in the statements, resolutions, agreements, documents, as well as procedures and practices in ECOP;

- To help ensure that domestic workers are informed of their rights;
- To initiate, participate, and support a continuing and informed discussion among stakeholders, of the employment of domestic workers and their rights;
- To work with other agencies—government and civil society—in promoting the rights of domestic workers.

The Guidelines

Domestic helpers are persons who render service in the employer's home, with such service necessary or desirable for the maintenance and enjoyment of the living conditions of the employer. This service includes attending to the comfort and convenience of the members of the employer's household. Drivers, maids, cooks, yayas (nannies), drivers, and all-around helpers are domestic helpers.

ECOP respects, upholds, and promotes the rights of domestic workers; and recognizes the contribution of domestic workers in the economy and in society, and as a social cluster deeply instituted in the Filipino family life.

1. Terms and conditions of employment

ECOP shall promote the right of domestic workers to full access and non-discrimination in the access to social protection, including minimum wage, work hours, sickness and maternity pay, and other terms and conditions of employment as mandated by law. It also shall uphold their right to work free from fear of physical, sexual, or psychological abuse.

ECOP specifically undertakes to promote the following:

Minimum wage

ECOP commits to abide by the legislated minimum wage. At the same time, ECOP shall undertake to incorporate in the law an increase in the minimum wage of domestic workers, taking into consideration the prevailing rate which is higher and in no case should be lower than the legislated wage; the assumption that domestic workers are actually receiving more, considering the other non-monetary benefits they enjoy such as food, lodging, and use of utilities; and that it is not uncommon that these benefits are extended to family members of domestic workers.

Work and rest hours

In compliance with the law, all domestic workers shall be given paid days off, currently at four days a month. Given the cultural and religious practices in the country, ECOP shall afford domestic workers one day off a week, and whenever possible, additional hours for worship. This arrangement shall be upon mutual agreement of employer and employee.

Considering that housework is not as structured as office work: work load for the former can be erratic considering that domestic workers are “on call” anytime; and because domestic work is home-based, domestic workers are often called upon to perform chores anytime during the day, ECOP shall prescribe and strictly implement rest hours and meal periods set at reasonable durations and intervals, but shall remain flexible as to the work hours.

Education

Education is not an attractive option to domestic workers as they would rather use the money for their family's or personal upkeep rather than pay for the cost of schooling, ECOP shall provide all forms of incentives to encourage domestic workers below 18 years old to pursue schooling, whether formal or informal, technical or vocational, with such incentives taking the form of integrating the cost of schooling in the basic wage or giving early time off or extra days off, or whatever arrangement is mutually acceptable to both employer and employee.

Paid sick leaves and maternity leaves

Considering that the resources available to employers of domestic workers are not as extensive as those in formal establishments, and the employment arrangement not as complex, ECOP undertakes to offer vacation leave and maternity leave entitlement to domestic workers after one year of service. ECOP shall explore other leave benefits, including paternity leave. Compliance to affording sick leaves shall be in accordance with law.

Social protection

Social protection does not necessarily mean raising workers' incomes. Social protection includes not only public social security schemes but also private or non-statutory schemes with a similar objective, such as mutual benefit societies and occupational pension schemes.

Most domestic helpers are not registered with the social security system, for various reasons: (1) lack of awareness regarding the services and benefits of the programs, (2) lack of awareness regarding their rights, (3) reluctance to contribute to the system, (4) failure of some employers to enroll in the system.

ECOP shall facilitate the membership of domestic workers in said social security schemes. Moreover, it shall explore social insurance schemes to cover insurance against risks of particular life events, such as natural disasters; compensation for some types of extra costs, for example, children allowances; and financial support in case of insufficient income and to alleviate poverty.

ECOP shall take into consideration the following factors in developing and advocating for appropriate social protection schemes: the capacity to pay of domestic workers; the government's program; and the accompanying mechanisms to ensure that such schemes are made accessible to the largely unregistered and unmonitored domestic workers' population.

2. Contract of employment

ECOP recognizes that for the most part, the employment arrangements between employers and domestic workers are informal, oral, and seldom embodied in a written contract. ECOP shall undertake measures to require a written contract under this arrangement.

ECOP shall draft a model contract with provision that will ensure that both parties (Employers and Domestic Workers) rights shall be protected.

Employment of domestic workers through recruitment agencies shall, however, at all times require a written contract. ECOP shall ensure that recruitment agencies observe this standard practice.

ECOP shall facilitate the establishment of a monitoring system that will ensure the legal operation of recruitment agencies. This system shall also regulate the activities of the licensed agencies. This system shall be developed in coordination with the organizations of recruitment agencies who shall take the lead in the investigation of reported cases of violations against the agencies. Should there be valid and verified reports of violations backed up with sufficient evidences, these organizations shall facilitate the revocation of the concerned recruitment agencies' license to operate.

At the same time, ECOP shall not deny and in fact make it standard practice, with or without request, to issue a certification of employment upon termination of contract; or upon request and provided they are for legal purposes when domestic workers are still in employ.

3. Registration

Domestic work has a dual nature: in principle, it should be part of formal employment because of the presence of a clear employee-employer relationship. However, in practice, domestic work is submerged in the informal economy where it is unmonitored and hence, difficult to subject to enforcement of standards.

ECOP shall support the registration of domestic workers, and will work with local government units in support of the devolution to LGUs of the task of creating a registry of domestic workers in the community, as well as the enforcement of the law.

It shall establish and strengthen its partnership with non-government organizations, business groups, faith-based groups, and community associations, for monitoring the enforcement of the law.

4. Free association

Unlike industrial occupations, where many workers have one employer and have opportunities at the workplace to coalesce around shared issues and concerns, relatively few domestic helpers in the same type of work category (maid, yaya, driver, all-around) have the same employer and working conditions. Working within the household premises of their employers, domestic helpers are often isolated from the outside world and, therefore, from each other. This reduces the recognition among domestic helpers that they may have common issues of concern. Hence, organizing domestic workers is very difficult.

Moreover, because of the dual and confused classification of domestic workers (formal and informal), they are not represented by local trade unions, nor are they included in the informal sector coalitions established by some of these unions.

ECOP shall undertake measures to encourage the free association among domestic workers, through meetings, access to the programs of non-government organizations and faith-based organizations, and such other forms as to facilitate organization and consolidation based on shared issues and concerns.

5. Organizational intervention and partnership

There is an aversion to new frameworks and new legislations among different sectors, particularly in the private sector. In fact, there is a tendency to veer away from legalistic discussions and leave this domain to practitioners in politics.

The practical option in the short-term is to work within established laws and procedures, and create a *rights-based approach* to promoting decent living standards and social protection for domestic workers. Essentially, this entails integrating projects, activities, and programs within existing programs that will ensure that the welfare of domestic workers is taken into account.

ECOP shall affirm the rights of domestic workers in its statements, resolutions, agreements, documents, procedures and practices.

ECOP shall work with other agencies—government and civil society—in promoting the rights of domestic workers, and in helping raise the awareness of domestic workers of their rights and options.