



DECENT WORK CHECK

AFGHANISTAN 2023

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WageIndicator Foundation - www.wageindicator.org

WageIndicator started in 2001 to contribute to a more transparent labour market for workers and employers by publishing easily accessible information on a website. It collects, compares and shares labour market information through online and face-to-face surveys and desk research. It publishes the collected information on national websites, thereby serving as an online library for wage information, labour law, and career advice, both for workers/employees and employers. The WageIndicator websites and related communication activities reach out to millions of people on a monthly basis. The WageIndicator concept is owned by the independent, non-profit WageIndicator Foundation, established in 2003. The Foundation has offices in Amsterdam (HQ), Ahmedabad, Bratislava, Buenos Aires, Cape Town, Islamabad and Venice.

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INTRODUCTION

Decent Work is the type of work for which all of us aspire. It is done under conditions where people are gainfully employed (and there exist adequate income and employment opportunities); social protection system (labour protection and social security) is fully developed and accessible to all; social dialogue and tripartism are promoted and encouraged; and rights at work, as specified in ILO Declaration on Fundamental Principles and Rights at Work and Core ILO Conventions, are practised, promoted and respected.

WageIndicator Foundation has been working, since late 2007, to raise awareness on workplace rights through a unique tool, i.e., **Decent Work Check**. The Decent Work Check considers different work aspects deemed necessary in attaining “decent work”. The work makes the abstract Conventions and legal texts tangible and measurable in practice.

The Decent Work Check employs a double comparison system. It first compares national laws with international labour standards and scores the national regulations (happy or sad face). If national regulations in a country are not consistent with ILO conventions, it receives a sad face and its score decreases (and vice versa). It then allows workers to compare their on-ground situation with national regulations. Finally, workers can compare their personal score with national score and see whether their working conditions are consistent with national and international labour standards. The Check is based on de

jure labour provisions, as found in the labour legislation.

A Decent Work Check is beneficial both for employees and employers. It gives them knowledge, which is the first step towards any improvement. It informs employees of their rights at the workplace while simultaneously enlightening employers about their obligations. Decent Work Check is also helpful for researchers, labour rights organisations conducting surveys on the situation of rights at work and the general public wanting to know more about the world of work. For example, WageIndicator teams worldwide have found out that workers, small employers and even labour inspectors are not, sometimes, fully aware of the labour law. When you are informed – being a worker, self-employed, employee, employer, policymaker, labour inspector – there is a greater possibility that you ask for your rights (as a worker), you comply with rules (as an employer), and you strive to enforce these (as a labour inspector).

The work is relevant to the challenges posed to the future of work, especially the effective enforcement of legislation in financially constrained states, a rise in precarious employment and analysing the impact of regulatory regimes.

In 2023, the team aims to include at least 15 more countries, thus taking the number of countries with a Decent Work Check to 125!

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Constitution of Islamic Republic of Afghanistan, 2004
2. Afghanistan Labour Code, 2007
3. Law on Elimination of Violence Against Women, 2009
4. Law on Protection of Child Rights, 2019
5. Education Law, 2008, 1387
6. The Law on Assemblies, Strikes and Demonstrations, 2003

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

Afghanistan has ratified the Convention 95 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.

Regulations on work and wages:

- Afghanistan Labour Code, 2007

Minimum Wage

Afghanistan follows a statutory minimum wage system where minimum wages are determined by the state for public sector employees. The employers in the private sector can set minimum wage at the enterprise level with the condition that these cannot fall below the minimum wage set by the government for public sector workers.

Individual wage rates, at the enterprise level, are determined on the basis of the quality and quantity of the work and with due regard to grades, ranks, given post, period of training, and practical work as well as other conditions, as stipulated in legislation.

The minimum wage for the public sector workers as well organizations where government's capital share is more than 50%, the minimum wage is determined by the relevant ministries. These are Ministries of Labour, Social Affairs, Martyrs and Disabled and of Finance and Civil Service Commission. The Labour Code does not prescribe any process or criteria for determination or revision of minimum wages.

Any disputes arising from work, between the enterprise and worker (or a trainee), can be settled by mutual understanding of the parties. If the dispute is not resolved by mutual understanding, it is investigated and resolved by the intervention of the relevant trade union. If that is not successful either, the dispute can be referred to the High

Commission for resolving disputes or by the authorised court.

There is no provision in law stipulating penalties or fines for non-compliance with minimum wage requirements.

Source: §59, 62, and 131 of the Afghanistan Labour Code, 2007

Regular Pay

Afghanistan labour Code defines wages as the amount paid to the employee on completion of work. Under the law, from the date of signing the contract or after approval of appointment, employees are entitled to receive wages. The law provides for timely payment of wages. The employee should be paid either a time-based payment by computing the monthly or weekly work hours or a work-based payment by computing the output. The law specifies wage and other payments for the weekly rest day (Friday) to be equivalent to normal working days.

Wages should be paid to the employee or the person nominated by the employee in writing. It should be paid during the same month and not be delayed without the consent of the employee.

Deduction from wages is not permitted unless provided under the law. Damage compensations can be deducted from the employee's monthly wage. However, the total deductions cannot exceed 20% of the worker's wages.

Source: §63, 73 & 74 of the Afghanistan Labour Code, 2007

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Afghanistan has not ratified both the Conventions.

Summary of Provisions under ILO Conventions

Working overtime is to be avoided. Whenever it is unavoidable, extra compensation is at stake - minimally the basic hourly wage plus all additional benefits you are entitled to. In accordance with ILO Convention 1, overtime pay rate should not be less than one and a quarter time (125%) the regular rate.

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions are found in the Night Work Recommendation No. 178 of 1990.

If a worker has to work on a national/religious holiday or a weekly rest day, he/she should be entitled to compensation. Not necessarily in the same week, provided that the right to a paid compensation is not.

If a worker has to work during the weekend, he/she should thereby acquire the right to a rest period of 24 uninterrupted hours instead. Not necessarily in the weekend, but at least in the course of the following week. Similarly, if a worker has to work on a public holiday, he/she must be given a compensatory holiday. A higher rate of pay for working on a public holiday or a weekly rest day does not take away the right to a holiday/ rest.

Regulations on compensation:

- Afghanistan Labour Code, 2007

Overtime Compensation

Working hours are defined as the physical and mental energy available to the enterprise for the purpose of work. Working hours are specified by the Labour Code of Afghanistan. The working hours may not exceed 40 hours per week. The annual working hours concerning the utilization of work hours, commencement and ending of the work period of employees, shift schedules and other issues are regulated by the Ministry of Labour and Social affairs.

The enterprise may increase or decrease working hours depending upon the nature of work, upon approval by the Ministry of Labour and Social Affairs. However, the weekly working hours cannot exceed 40.

The weekly working hours can be reduced in the following cases:

- 1) 35 hours per week for young workers (15-18 years of age);
- 2) 30 hours per week for employees engaged in work that is injurious to health.
- 3) 35 hours per week for pregnant workers.

Employer, in agreement with the worker, can ask worker to work overtime. Work performed by an employee beyond the normal working hours is considered overtime. Under the law, overtime hours should not exceed the average of normal working hours. The overtime working hours per day cannot exceed average daily working, i.e., six to eight hours per day.

Overtime is permissible under the following cases.

- 1) In cases of delayed performance or work for public services;
- 2) In order to prevent industrial or social accidents;
- 3) In case of malfunctioning of machinery that leads to stopping of work for a lot of employees, repair and restoration work;
- 4) In order to prevent circumstances that prevent the normal functioning of social services (heating, water supply, lighting, sewage, transportation, communications, health and other social services);
- 5) Completion of work that can lead to material or moral damage;
- 6) In cases of absence of shift workers from work if the interruption is not possible. The administration shall take immediate measures for the replacement of employees;
- 7) In cases for the work stopped or not performed, only if the wasted time arises due to unforeseen circumstances for a maximum of one month. The administration is to pay all the wages and entitlements, the wasted hours can then be utilized after the operations are resumed;
- 8) Other types of work needed by the enterprise, as determined by the person-in-charge.

Night shift employees, underground workers, who work in hazardous work conditions, pregnant women, and women who have children below the age of two cannot be engaged in overtime work.

For overtime hours, workers are paid at 125% of the normal hourly rate (25% wage premium). If overtime work is done on a

weekly rest day or a public holiday, workers are paid at 150% of the normal hourly rate (50% wage premium).

The conditions, arrangement and the number of overtime hours are, with due regard to the special features of the work of the specified employees, determined by the internal regulations of the enterprise.

Source: §30, 31, 37, 38 & 67 of the Afghanistan Labour Code, 2007

Night Work Compensation

The Labour Code does not clearly define night and night workers. Night is defined as a period of “11 consecutive hours as regulated by the Ministry of Labour and Social Affairs through internal rules of the enterprise. The Labour Code reduces the working hours for night workers by one hour, as compared to the day workers.

The reduction in work hours for night workers does not apply if the enterprise has already reduced working hours in consideration of the nature of work. Similarly, reduction in work hours is not possible due to production requirements or work in shifts.

During night work, general workers are paid 115% of the normal hourly rate (15% wage premium). The production workers are paid 125% of the normal hourly rate (25% wage premium). The conditions and procedures are regulated as approved by the Council of Ministers upon a proposal by the Ministry of Labour and Social affairs.

Source: §32, 33 & 36 of the Afghanistan Labour Code, 2007

Compensatory Holidays / Rest Days

According to Afghanistan Labour Code, employees are entitled to paid leave and rest. The last day of the week (Friday) is a weekly rest day and is deemed to be a paid public holiday. The law does not directly mention the hours of weekly rest. There is no clear provision regarding compensatory rest day for those who are engaged in work on a weekly rest day.

Under the law, the wage for working on a public holiday shall be twice the normal wage, unless a compensatory leave day is granted with the consent of the employee within two weeks. Hence, the Labour Code allows an option between the compensatory rest day and premium wages for those working on public holidays.

Source: §10 & 69 of the Afghanistan Labour Code, 2007

Weekend / Public Holiday Work Compensation

Under the law, public holidays (national and religious) are paid. The general public holidays are 12 in number.

The law also provides for the wage for work on a public holiday. Work done during the public holiday should be paid twice (the ordinary wage) unless a compensatory leave day is granted with the consent of the employee within two weeks.

The Labour Code considers weekly rest day, Friday, as a public holiday and requires it to be a paid day.

Source: §39, 41 & 69 of the Afghanistan Labour Code, 2007

03/13 ANNUAL LEAVE & HOLIDAYS

ILO Conventions

Convention 132 (1970) on Holidays with Pay Convention
Conventions 14 (1921), 47 (1935) and 106 (1957) for weekly rest days.
In addition, for several industries, different Conventions apply.

Afghanistan has ratified the conventions 14 & 106 only.

Summary of Provisions under ILO Conventions

An employee is entitled to at least 21 consecutive days of paid annual leave. National and religious holidays are not included. Collective agreements must provide at least one day of annual leave on full remuneration for every 17 days on which the employee worked or was entitled to be paid.

A worker should be entitled to paid leave during national and officially recognized public holidays.

Workers should enjoy a rest period of at least twenty-four consecutive hours in every 7-day period, i.e., a week

Regulations on annual leave and holidays:

- Afghanistan Labour Code, 2007

Paid Vacation / Annual Leave

The Labour Code in Afghanistan uses the term of annual leave as combined term for recreational, sick and urgent leave. The equivalent of paid vacation in Afghanistan is recreational leave.

The annual leave is provided upon the request and prior notice by the employee. Annual leave does not include public holidays, falling within its term. Every employee is entitled to an annual paid recreational leave of 20 working days. Employees are entitled to more than 20 days of annual paid leave in the following cases:

- 1) 25 working days, for those under the age of 18 years;
- 2) 30 working days, for those engaged in work that is injurious to health.

Professors and teachers who benefit from the general vacations provided by educational and higher educational institutions are not entitled to recreational leaves. However, in cases where the teachers do not benefit from the general vacations are entitled to annual leaves.

Upon the consent of the employee, the recreational leave may be granted for a consecutive 20 days. In cases of urgent need of the enterprise, annual leave may be carried forward to the next year. An employee is entitled to annual leave in accordance with the schedule provided by the enterprise. If the enterprise requires, the recreational leave can be

split and granted 10 days every six months.

A newly hired employee is entitled to recreational leave after consecutively working for 11 months in the enterprise. However, a seasonal employee whose contract is for at least three months may also benefit from recreational leave proportionate to their term of service. There is no provision in law requiring a longer recreational leave with the increase in length of service.

The law does not directly state the usual salaries that need to be paid to the employees. However, the law obligates payment of wages and other allowances in advance of the recreational leave period.

Payment in place of unused recreational leave is allowed if the worker retires or resigns from employment.

The enterprise can regulate and grant recreational leave. However, if the enterprise does not grant recreational annual leave to an employee due to the nature of work or increased workload, it is obliged to pay wage and other entitlements and allowances of leave days in addition to the principal wage. In case of the death of an employee, the enterprise is still obliged to pay the wages and entitlements of the leaves. The payments and entitlements are not time-bound and may be made as per the agreement between the employee and administration.

Source: §42,43,46 & 47-50 of the Afghanistan Labour Code, 2007

Pay on Public Holidays

Afghanistan Labour Code provides for the paid public holidays. The number of public holidays is at least 12.

The list of the public holidays (national and religious) is as follows:

- The first day of the [solar] year (Nawroz);
- 28th of Assad (the Independence Day of the country);
- 8th of Sawr, Victory of the Islamic Revolution of Afghanistan;
- The three days of Eid- ul- Fetar (end of Ramadan);
- Four days of Eid- ul- Adhah and Arafa (The Feast of Sacrifice);
- Twelfth of Rabiul Awal, the birthday of the Great Prophet of Islam, Prophet Muhammad (Peace be Upon Him);
- 10th of Muharam-al- Harram (the Day of Ashura)
- Other days are declared by the State of the Islamic Republic of Afghanistan as public holidays.

Source: §40 & 69 of the Afghanistan Labour Code, 2007

Weekly Rest Days

Under the law, the last day of the week, i.e., Friday is a weekly rest day. The law does not directly mention the number of hours.

Source: §41 of the Afghanistan Labour Code, 2007

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Afghanistan has not ratified Convention 158.

Summary of Provisions under ILO Convention

The questions under this section measure the security or even flexibility or precariousness of an employment relationship. Although these are not clearly mentioned in a single convention (severance pay and notice requirement are provided in the Termination of Employment Convention No. 158) however, the best practices in the field require that employees be provided with a written contract of employment; workers on fixed term contracts should not be hired for tasks of permanent nature; a reasonable probation period (ideally lower than or equal to 6 months) may be followed to assess the suitability of an employee; a period of notice must be specified in an employment contract before severing the employment relationship; and workers be paid severance allowance on termination of employment relationship.

A contract of employment may be oral or written however workers should be provided with a written statement of employment at the start of their employment.

Fixed Term Contract workers must not be hired for permanent tasks as it leads to precarious employment.

A reasonable probation period must be allowed to let a worker learn new skills. A newly hired employee may be fired during probation period without any negative consequences.

A reasonable notice period, depending on the length of service of an employee, may be required before an employer may sever the employment relationship.

Employers may be required to pay a severance allowance on termination of employment (due to redundancy or any other reason except for lack of capacity or misconduct).

Regulations on employment security:

- Afghanistan Labour Code, 2007

Written Employment Particulars

According to the Afghanistan Labour Code, an employment contract is a written agreement between the employee and employer. Under the contract, an employee is obliged to provide a service for a definite or indefinite period in return for wages and other rights and privileges.

An employment contract must be legitimate, defining the subject matter, without any legal obstacles against work, specify type of work or occupation, wages, rights and privileges of the employee, working hours, leave entitlements, workplace or unit where the employee will engage in work and the date of contract signing. The law prohibits work in violation of the contract, except in cases provided in the law. An employment contract is prepared in three copies, one copy each for the worker, employer and the Ministry of Labour and Social Affairs.

No provision could be located requiring employers to provide employment contract to the worker within certain days of the commencement of employment.

Employment contract of a minor (under 18) and apprenticeship contracts of young workers are signed by their legal representatives.

Source: §14-16 of the Afghanistan Labour Code, 2007

Fixed Term Contracts

Fixed-term contracts are regulated under the Labour Code. The initial length of a single fixed term contract is 12 months. This term can be extended on agreement of both the parties. If the parties take no action within a month of the expiry of fixed-term contract, the contract is deemed to be extended with the same terms and conditions. The Labour Code does not set a limit on the maximum length of fixed-term contract including renewals. Provisions for conditions, renewals, the maximum length of the renewals and restrictions on the hiring of fixed-term contract workers could not be located.

Source: §14 of Afghanistan Labour Code, 2007

Probation Period

Under the law, the probationary period of an employment contract may be mutually agreed upon between the parties. The probationary period may not exceed three months. During such a period, the employment contract may be terminated upon notice to the other party. If the contract is not terminated during the probation, the contract is effective under the following conditions

- 1) The training period is included in the total employment period.
- 2) The probationary period for state civil servants shall be determined in accordance with the relevant legislative document.

Labour Code does not set different probation periods for different jobs or occupations.

Source: §17 of the Afghanistan Labour Code, 2007

Notice Requirement

The Labour Code regulates termination of an employment contract. An indefinite term contract may be terminated by either party by serving a notice of one month duration.

The Labour Code allows for termination of employment contract in the following cases: by agreement between the parties; on expiry of fixed-term contract; worker's retirement on attaining the age of superannuation; worker's death; worker's disability that hinders the performance of work; stoppage of work for more than six months (due to economic or organizational reasons); dissolution of the enterprise/company or reduction in staff (redundancy); final conviction to two months' imprisonment; repeated violations despite the disciplinary actions and punishments; refusal of the worker on re-assignment to their previous duty; and an unsatisfactory probation period.

In the event of employment contract termination, the enterprise is required to transfer all the due entitlements (wages) and allowances to the employee or the legal heir in case of the worker's death. Unless agreed between the parties, an employment contract should only be terminated when it is not feasible to transfer the employee to a similar job.

The law also allows termination of employment contract of a worker in the following cases:

1. Absence from work for consecutive 20 days without a good cause;

2. Violation of labour discipline more than once during a year (and where earlier penalties of advice, warning, deduction of salary, and transfer of worker have already been applied)

A fixed term contract can also be terminated by a worker with or without notice if the enterprise has breached the contractual obligations or violated the legal provisions, or if the worker had a prolonged and incurable illness or disability that would hinder the performance of their work. The employee or their legal representative should provide a written notice to the Ministry of Labour and Social Affairs concerning the termination of the employment contract, in accordance with the conditions stated to avoid any disagreement.

Source: §23-24 & 101 of the Afghanistan Labour Code, 2007

Severance Pay

Severance pay is regulated under the Labour Code. In Afghanistan, there is no general right to severance pay upon termination of employment except when such termination is based on the following reasons:

- a. cessation of enterprise activities for more than 6 months;
- b. dissolution of the enterprise or downsizing (reduction in staff);
- c. criminal conviction hindering the continuation of the work; and
- d. employee's refusal to be re-assigned to their previous position.

Employees who are dismissed for other reasons (conduct or capacity) or where worker terminates the contract, there is no entitlement to severance pay. The Afghan Labour Code refers to the

payable amount as Job Placement Assistance and this is inclusive of wages, allowances and supplements. The amount is dependent on the length of service as follows:

- a. one month's wage for workers who have completed one year of service;
- b. two months' wages for workers who have completed one to five years of service;
- c. four months' wages for workers who have completed five to ten years of service;
- d. six months' wages for workers who have completed more than ten years of service

Employer is also required to share a list of employees whose contracts have been terminated, describing their qualifications and experience, with the Ministry of Labour and Social Affairs or its provincial representative offices.

Source: §25 of the Afghanistan Labour Code, 2007

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

Convention 156: Workers with Family Responsibilities Convention (1981) Recommendation 165: Workers with Family Responsibilities (1981)

Afghanistan has not ratified both the Conventions.

Summary of Provisions under ILO Convention

Paternity leave is for the new fathers around the time of childbirth and is usually of shorter duration.

Recommendation (No. 165) provides for parental leave as an option available to either parent to take long leave of absence (paid or unpaid) without resigning from work. Parental leave is usually taken once the maternity and paternity leave have been exhausted. For working parents, laws may define the portion of parental leave that has to be compulsorily taken by fathers or mothers.

Flexible Work Option for Parents / Work-Life Balance Recommendation 165 asks the employers to look into the measures for improving general working conditions through flexible work arrangements.

Regulations on family responsibilities:

- Afghanistan Labour Code, 2007

Paternity Leave

There is no provision for special paternity leave in Afghanistan. However, the Labour Code does stipulate 10 days of urgent leave which can be used in different situations. The urgent leave is a paid leave with all entitlements and allowances. It is granted upon notice and each instance of urgent leave must not exceed three days. Leaves for a longer period can be granted upon the request by the employee and approval by the enterprise. The Labour Code provides for a maximum of 10 days of urgent leave in the following instances in a year: worker's marriage; the death of close relatives; and the birth of a baby. As stated above, the law does not exclusively provide for paternity leave.

Source: §51 of the Afghanistan Labour Code, 2007

Parental Leave

No provisions on parental leave could be located in the law.

Flexible Work Option for Parents / Work-Life Balance

According to the Afghanistan Labour Code, an enterprise may provide for part-time contracts (allowing work during parts of the day, week or contract based on output or piece work) for retired or persons with disabilities or women involved in household duties such as raising children, or anyone who is skilled and able to perform work.

Moreover, the law requires the enterprise to establish nurseries and kindergartens for the children of female employees.

Source: §29 & 126 of the Afghanistan Labour Code, 2007

06/13 MATERNITY & WORK

ILO Conventions

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after birth. However, a later convention (No. 183 from year 2000) requires that maternity leave be at least 14 weeks of which a period of six weeks compulsory leave should be after childbirth.

Afghanistan has not ratified convention 103.

Summary of Provisions under ILO Convention

During pregnancy and maternity leave, a worker should be entitled to medical and midwife care without any additional cost.

During pregnancy and while breastfeeding, a worker should be exempt from work that might bring harm to you or your baby.

The total maternity leave should last at least 14 weeks.

During maternity leave, a worker's income should amount to at least two thirds of your preceding salary.

During pregnancy and maternity leave, a worker should be protected from dismissal or any other discriminatory treatment.

Workers have the right to return to same or equivalent position after availing maternity leave.

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breastfeeding the child.

Regulations on maternity and work:

- The Constitution of the Islamic Republic of Afghanistan, 2004
- Afghanistan Labour Code, 2007

Free Medical Care

No provisions could be located on providing free medical care to pregnant workers.

The Constitution guarantees free preventive healthcare and treatment of diseases and medical facilities to the citizens according to the provisions of law.

The Labour Code also requires employers to carry out medical examinations and provide first aid to the employees and their families. However, medical treatment exclusively for pregnant workers could not be located.

Moreover, the Labour Code requires employer to provide social protection to workers and their families in the form of healthcare and medical services, and assistance for childbirth. The medical services and similar benefits are provided to the workers and their family members, according to the financial capacity of the enterprise.

Source: §52 of the Constitution of the Islamic Republic of Afghanistan, 2004; §115 and 134 of the Afghanistan Labour Code, 2007

No Harmful Work

The Afghan Labour Code prohibits employment of women in all kinds of work that is physically arduous, or harmful to health or carried out in underground sites.

The list of such work is to be prepared by the Ministries of Public Health and Ministry of Labour and Social Affairs in coordination with the relevant enterprises. Such a list could not be located.

During the period of pregnancy and on the basis of a physician's certificate, a pregnant worker must be assigned to a lighter work, without negatively impacting their wages and other rights. The Code further prohibits the employment of pregnant workers in night work, overtime work or travel for official work, outside the city or country of work. It also restricts the employment of women with children under two years of age in overtime work and official travel.

Source: §120-123 of the Afghanistan Labour Code, 2007

Maternity Leave

Under the Afghan Labour Code, a female worker is entitled to a paid maternity leave of 90 days. While the prenatal leave is 30 days (one-third), the postnatal leave is 60 days (two-third of 90 days). The legislation also provides for a 15-day extension in maternity in cases of an abnormal delivery (including caesarean birth), delivery of twins or more than twin babies. Wages and other allowances are paid after a woman worker provides the employer a certificate (of child delivery) issued by the hospital. After the completion of maternity leave, the female employee must report to her duty within five days of completion of maternity leave. In case of failure to report, she is regarded absent and is no longer entitled to the wages.

Source: §55 of the Afghanistan Labour Code, 2007

Income

The maternity leave is fully paid leave, payable by employer. The payment for the 90-day maternity leave and 15-day extension is paid on the presentation the of medical certificate by the hospital of child delivery. The Labour Code provides for assistance for childbirth. The financial assistance is paid from the enterprise's funds.

Source: §134 of the Afghanistan Labour Code, 2007

Protection from Dismissals

The law forbids refusal to employ pregnant or lactating women or reduce their wages. Provisions of direct legislation on protection from dismissal during the term of pregnancy or maternity leave could not be located. There is no express prohibition on discriminatory dismissal due to pregnancy.

Source: §125 of the Afghanistan Labour Code, 2007

Right to Return to Same Position

There is no express or even indirect provision guaranteeing the right to return to the same position after completion of maternity leave.

Breastfeeding/ Nursing Breaks

Lactating mothers should be provided with nursing breaks not less than 30 minutes for every three hours in the children's room at the worksite. These breaks are part of their working time. The nursing break provided under the legislation are regulated under the internal rules of the enterprise in accordance with the nature of work. There is no clear provision on the age of child till which the nursing break is provided to the lactating worker.

Employers are also required to establish and equip nurseries and kindergartens at the workplace for children of female employees.

Source: §124-125 of the Afghanistan Labour Code, 2007

07/13 HEALTH & SAFETY

ILO Conventions

Most ILO OSH Conventions deal with very specific Occupational Safety hazards, such as asbestos and chemicals.

Convention 155 (1981) is the relevant general convention here.

Labour Inspection Convention: 81 (1947)

Afghanistan has not ratified both the Conventions.

Summary of Provisions under ILO Conventions

The employer, in all fairness, should make sure that the work process is safe.

The employer should provide protective clothing and other necessary safety precautions for free.

Workers should receive training in all work-related safety and health aspects and must have been shown the emergency exits.

In order to ensure workplace safety and health, a central, independent and efficient labour inspection system should be present.

Regulations on health and safety:

- Afghanistan Labour Code, 2007

Employer Cares

The law caters for the health and safety of the workers at the workplace. Employees have a right to be provided with occupational safety, professional training, skills development, improvement of professional knowledge and the right to benefit from social security.

The law requires the employer to ensure health and labour safety, administration of safety techniques to prevent work-related accidents and provide healthy conditions to prevent occupational diseases.

Designing a building or making use of industrial or production facilities, installations and equipment, the administration must comply with all technical and environmental protection standards. Additionally, the enterprise should build and equip work and production-related rooms, facilities and places for work and residence of employees.

New establishments that have been rehabilitated or reconstructed should be permitted upon the approval of the enterprise for technical maintenance and environmental protection.

Source: §11 and 107-109 of the Afghanistan Labour Code, 2007

Free Protection

Under the law, in cases of harmful work conditions, where there is a especially low or high temperature, where the risk of

contamination is involved, the employer should provide safety equipment. Special clothes, footwear, masks, eyeglasses, gloves and any other required protective devices along with preventive and curative food materials should be made available to the employees. The personal protective equipment and curative food materials should be provided free of charge and in accordance with the established rules and standards. The employer is responsible for the supply, maintenance, cleaning, sterilisation, drying and repair of special working clothes and protective devices.

Source: §112 of the Afghanistan Labour Code, 2007

Training

Under the law, employer should provide training related to employee safety, environmental health, fire-fighting, provision of medical first-aid and other types of protection. The employees should ensure to observe rules and standards of work related to protection and safety, rules for using equipment, protection instructions and utilisation of individual protective devices while working.

Source: §111 of the Afghanistan Labour Code, 2007

Labour Inspection System

Under the law, the standards and rules for labour should be drafted and regulated by the Ministry of Labor and Social Affairs, in cooperation with the employers. Monitoring and guidance over compliance with labour-related laws, protection and safety measures, arduous work and jobs that are harmful to health, work times, wages, employee benefits and work

conditions are exercised by the Labour Monitoring and Guidance Authority of the Ministry of Labor and Social affairs. Provisions for organizational setup, staff, and the scope of labour inspection could not be located.

Source: §87 and 146 of the Afghanistan Labour Code, 2007

08/13 SICK LEAVE & EMPLOYMENT INJURY BENEFIT

ILO Conventions

Convention 102 (1952), Conventions 121 (1964) and 130 (1969) concerning Social Security, Employment Injury Benefits and Medical Care and Sickness Benefits

Afghanistan has not ratified the Conventions 102, 121 & 130.

Summary of Provisions under ILO Conventions

A worker's rights to work and income should be protected when illness strikes. The national labour law may provide that sickness benefit may not be paid during the first 3 days of your absence. Minimally, a worker should be entitled to an income during first 6 months of illness. This income should be at least 45 per cent of the minimum wage. (Countries are free to opt for a system which guarantees 60 per cent of the last wages during the first 6 months of illness or even during the first year). A worker must be entitled to paid sick leave.

During illness, a worker should be entitled to medical care without any additional cost. Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

During the first 6 months of illness, a worker should not be fired.

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker's average wage in periodical payments.

Regulations on sick leave & Employment Injury Benefits:

- The Constitution of the Islamic Republic of Afghanistan, 2004
- Afghanistan Labour Code, 2007

Income

Under the law, employees are entitled to a paid sick leave of 20 days, together with other entitlements and allowances. A paid sick leave for up to five days should be granted on a written notice. In cases, where the sickness of an employee exceeds 5 consecutive days, the employee is required to present a sickness certificate. To ensure validity, the certificate should be issued by a medical doctor. If no such practitioner is available, certification from the village council should be considered valid.

If the employee is covered under medical insurance, certification by the doctor of the insurance company should be valid. If the sickness of the employee exceeds the time period stated, other leaves might be utilised.

The law provides provision for an additional paid sick leave. In such cases, the employee must present a certificate issued by a governmental or non-governmental health centre. The conditions for granting additional sick leave and its length are regulated in a separate legislative document which could not be located.

The annual, sick and urgent leaves for newly hired Employees are granted in proportion to their service.

- 1) An employee is entitled to full sick leave (20 days in a year) if they are

hired during the first half of the calendar year;

- 2) An employee is entitled to half sick leave (10 days in a year) if they are hired during the second half of the calendar year.

Source: §52, 53 & 56 of the Afghanistan Labour Code, 2007

Medical Care

The Constitution guarantees free preventive healthcare and treatment of diseases and medical facilities to the citizens according to the provisions of law.

The Labour Code also states to carry out medical examinations and provide first aid to the employees and members of their families.

Moreover, the Labour Code requires the employer to provide social protection to workers and their families in the form of healthcare and medical services, and assistance for childbirth. The medical services and similar benefits are provided to the workers and their family members, according to the financial capacity of the enterprise.

Source: §52 of the Constitution of the Islamic Republic of Afghanistan, 2004; §115 and 134 of the Afghanistan Labour Code, 2007

Job Security

Employment of a worker is secure during the term of sick leave, i.e., 20 days per year. Employment is also secure during the additional term, however, since its length is not provided under the law, it is unclear

if it meets the minimum requirement of six months of employment security for workers on sick leave.

Source: §52 and 53 of the Afghanistan Labour Code, 2007

Disability / Work Injury Benefit

Afghan Labour Code requires employers to set up a social security system for the workers through mutual financial participation of the worker and employer.

For work-related disability or death and occupational disease or death resulting from such diseases, the law obligates employer to pay the retirement salary of the employee equal to full wage of the worker before disability or death, regardless of the term of service. The disability needs to be confirmed by the medical committee on the disability certificate. The benefit is payable from the pension Fund.

Provisions for different kinds of work injury benefits for different types of disabilities could not be located.

Source: §134 and 141 of the Afghanistan Labour Code, 2007

09/13 SOCIAL SECURITY

ILO Conventions

Social Security (minimum standards): Convention 102 (1952). For several benefits somewhat, higher standards have been set in subsequent Conventions
Employment Injury Benefits: Conventions 121 (1964),
Invalidity, Old age and survivors' benefits: Convention 128(1967)
Medical Care and Sickness Benefits: Convention 130 (1969)
Unemployment Benefits: Convention 168 (1988).

Afghanistan has not ratified any of the Conventions.

Summary of Provisions under ILO Conventions

In the normal circumstances, the pensionable age may not be set higher than 65 years of age. If retirement age is fixed above 65 years, it should give “due regard to the working ability of elderly persons” and “demographic, economic and social criteria, which shall be demonstrated statistically”. Pension can be set as a percentage of the minimum wage or a percentage of the earned wage.

When the breadwinner has died, the spouse and children are entitled to a benefit, expressed as a percentage of the minimum wage, or a percentage of the earned wage. This must at least be 40% of the reference wage.

For a limited period of time, the unemployed has a right to unemployment benefit set as a percentage of the minimum wage or a percentage of the earned wage.

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.

Regulations on social security:

- Afghanistan Labour Code, 2007

Pension Rights

Under the Afghanistan Labour Code, employer may set up a social security system, with the participation of workers. The retirement age in Afghanistan is 65 years which can be extended for another five years with the consent of employee. The default working period of working men and women is 40 years. Under the bi-partite (employer and employee-funded) Pension Fund, workers are paid old-age pension on reaching the superannuation age. As per legislation, the level of social security increases in proportion to the growth and development of the national economy.

At the time of retirement, the age of the employee is determined according to the employee's record file. The working periods for scientists of government administrations, scientific research, higher education institutions and religious employees' retirement and extension of working periods are regulated by the relevant legislative documents. The working period of the employees engaged in arduous work is reduced by one year for every five years of underground work and two years for any other types of work that is injurious to health.

There is no clear provision on the amount of old-age pension and if the pension is at least 40% of the reference wage.

Source: §26,134,135,138 & 139 of the Afghanistan Labour Code, 2007

Dependents' / Survivors' Benefit

While the Labour Code requires disability benefits in a case of worker's disability or death due to occupational disease or injury, there is no clear provision on survivors' benefits.

According to article 141 of the Afghanistan Labour Code, for work-related disability or death resulting from such disease, as confirmed by the medical committee on disability certification, the retirement salary of the employee should full wage of the worker, regardless of the service term. The law also states that a pensioner's dependent survivors, who are entitled to receive a pension from multiple sources, should benefit from all those rights. The legislation provides for the pension of retired employees and of those who are survivors of the deceased should be increased in proportion to any rise in the general wage level. Under the law, the pension should be paid from the pension fund, which falls under social security.

Source: § 134,141,143 &144 of the Afghanistan Labour Code, 2007

Unemployment Benefits

No provisions are located on unemployment benefits in Afghanistan.

Invalidity Benefits

According to the Afghanistan Labour Code, financial assistance is provided to the worker on account of their inability to work temporarily by the employer and until the work capacity is regained or the worker becomes entitled to retirement. This invalidity benefit applies in terms of non-work injury. The assistance should

be equivalent to the monthly wage, including other rights that the employee received prior to the disability.

Provisions for qualification, percentage of old-age pension and invalidity benefits for at least 40% of the reference wage could not be located.

Source: §137 of the Afghanistan Labour Code, 2007

10/13 FAIR TREATMENT

ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden.

Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

Convention 190 (2019) is about elimination of violence and harassment in the world of work.

Afghanistan has ratified Conventions 100 and 111 only.

Summary of Provisions under ILO Conventions

At workplaces, equal pay for men and women for work of equal value is a must, regardless of marital status. Pay inequality based on race, colour, sex, religion, political opinion, national extraction/place of birth or social origin is also forbidden. A transparent remuneration system and the clear matching of pay and position should be in place and to help prevent wage discrimination.

Convention No. 190 recognizes the right of everyone to a world of work free from violence and harassment. It defines violence and harassment as “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. This definition covers physical abuse, verbal abuse, bullying and mobbing, sexual harassment, threats and stalking, among other things.

An employer can't discriminate against you on in any aspect of employment (appointment, promotion, training and transfer) on the basis of union membership or participation in union activities, filing of a complaint against an employer, race, colour, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin, temporary absence due to illness, age, trade union membership, disability/HIV-AIDS, or absence from work during maternity leave. (Conventions 111, 156, 158, 159 and 183)

People have the right to work and there can't be occupational segregation on the basis of gender.

Regulations on fair treatment:

- The Constitution of the Islamic Republic of Afghanistan, 2004
- Afghanistan Labour Code, 2007
- Law of Elimination of Violence Against Women, 2009

Equal Pay

The Afghanistan Labour Code states employees in the state have the right to equal wages for equal work. The right to work against a wage and the protection of the right to work is provided under the law. Employees are entitled to receive wages, allowances and supplements on the basis of the quality and quantity of work, considering the posts, grades and ranks. The law prohibits discrimination in recruiting, wages and entitlements, profession, field or speciality as well as the right to education and social security. The law safeguards the rights of women in the workplace during pregnancy, after the birth of a child and in other cases. The law provides for the freedom to choose a profession, speciality or fieldwork industry and the types of jobs.

Source: §8 & 9 of the Afghanistan Labour Code, 2007

Sexual Harassment

Afghanistan enacted the Law on the Prevention and Prohibition of Harassment of Women and Children in 2018. The law prohibits harassment of women and children and sets both criminal penalties and civil remedies.

Under the 2009 law on elimination of violence against women, if a person curses,

intimidates or degrades a woman, they are sentenced to imprisonment of at least 3 months. If a person harasses or persecutes a woman, considering the circumstances, they are sentenced to short term imprisonment of at least 3 months.

If the offender is harassing or persecuting a person using authority and position, they can be sentenced to short term imprisonment of at least 6 months.

The law grants the victims of violence the right to prosecute the offenders and the offenders are liable to compensate the victims based on circumstances.

Source: §5 and 30 of the Law on Elimination of Violence Against Women, 2009; §2(4), 3(6), 9(1), 12 and 13 of the Law on the Prevention and Prohibition of Harassment of Women and Children in 2018

Non-Discrimination

The Constitution prohibits any kind of discrimination and distinction between the citizens of Afghanistan. All citizens, men and women, have equal rights and duties before the law.

The Labour Code prohibits discrimination in recruitment, payment of wages and entitlements. However, provisions for the definition of discrimination and the prohibited grounds for discrimination could not be located in both the Constitution and Labour Code.

Source: §22 of the Constitution of The Islamic Republic of Afghanistan; 9 of the Afghanistan Labour Code, 2007

Equal Choice of Profession

The Constitution prohibits any kind of discrimination and distinction between the citizens of Afghanistan. All citizens, men and women, have equal rights and duties before the law. The citizens of Afghanistan shall be recruited on the basis of ability, without discrimination.

Provisions for the definition of discrimination could not be located. The prohibited grounds for discrimination could not be located in both the constitution and labour code.

The Labour Code obligates equal job opportunities. It prohibits discrimination in recruiting, payment of wages and entitlements, profession, field or speciality, as well as in the right to education and social security. However, provisions for discrimination on the basis of criteria such as colour, social origin, and nationality could not be located. In line with the Labour Code, everyone has the free right to choose a profession, speciality or field of work, industry and the type of job to suit their educational field, interest, talent and professional aptitude, in accordance with the relevant legislative documents.

Source: §22,50 of The Constitution of the Islamic Republic of Afghanistan; §2 & 9 of the Afghanistan Labour Code, 2007

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Afghanistan has ratified both the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

At workplaces, children may not be forced to perform work that could harm their health and hampers their physical and mental development.

All children should be able to attend school. Once this is safeguarded, there is no objection against children performing light jobs between the ages of 12 and 14. The general minimum age is 15 years however developing countries may set this at 14 years. The minimum age for hazardous work, work that is likely to jeopardize the health, safety or morals of young persons, is 18 years. It can also be set at a lower level of 16 years under certain circumstances.

Children should not be employed in a work that is likely to harm the health, safety or morals of children. It is considered one of the worst forms of child labour. The minimum age for such hazardous work is 18 years.

Regulations on minors and youth:

- Afghanistan Labour Code, 2007
- Law on Protection of Child Rights, 2019
- Education law, 1387

Minimum Age for Employment

According to Afghanistan Labour Code, the minimum age for employment is 18 years of age. For employees of light industries, the minimum age is 15 years and 14 years for trainees/apprenticeships.

At the time of engagement in labour, the age of the employee shall be determined and calculated according to the birth year mentioned in the citizenship card, considering the days and months that should be included in the record file of the employee. Altering the recorded age in the employment file should be invalid after the engagement in labour. The law prohibits engaging youth under the age of 18 years in work conditions that is hazardous to health.

The law on the protection of child rights states that girls and boys have an equal right to nurturing, education and learning. It states that basic and intermediate education is compulsory in Afghanistan. The Education Law stipulates free and compulsory education from the first grade to the end of ninth grade. Considering the fact that school starting age is six years, the compulsory education age is 15 years.

Source: §13 of the Afghanistan Labour Code, 2007; §48, 49 of the Law on Protection of Child Rights; §5 & 17 of the Education law

Minimum Age for Hazardous Work

Under the Afghanistan Labour Code, the law prohibits the employment of youth under the age of 18 years in work that may cause physical retardation or disability.

The Labour Code describes a young employee as a person who has completed the age of 14 years but is under 18 years of age. The Labour Code prohibits the employment of women and youth in work that is physically arduous, harmful or carried out in underground sites. The list of work is prepared and approved by the Ministries of Public Health, Ministry of Labour and Social Affairs and the relevant administration. List of Prohibited Jobs for Child Labourers could not be located however. The law also prohibits overtime and night work for the youth.

The law on the protection of child rights defines a child as a person who has not completed the age of 18 years. The law prohibits the recruitment of adolescents into works that are physical, heavy, hazardous to health and involve underground work. Similarly, overtime, or travelling for performing official duties is prohibited for young workers. The offender is liable to be punished under the law. Adolescents who have completed 15 years can be recruited as an intern/ apprentice.

Source: §13, 120-122 & 127 of the Afghanistan Labour Code, 2007; §63 Law on Protection of Child Rights, 2019

12/13 FORCED LABOUR

ILO Conventions

Forced labour: Conventions 29 (1930)

Abolition of Forced labour: Conventions 105 (1957)

Forced labour is the work one has to perform under threat of punishment: forfeit of wages, dismissal, harassment or violence, even corporal punishment. Forced labour means violation of human rights.

Afghanistan has ratified the Convention 105 only.

Summary of Provisions under ILO Conventions

Except for certain cases, forced or compulsory labour (exacted under the threat of punishment and for which you may not have offered voluntarily) is prohibited.

Employers have to allow workers to look for work elsewhere. If a worker is looking for work elsewhere, he/she should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.

Regulations on forced labour:

- The Constitution of the Islamic Republic of Afghanistan, 2004
- Afghanistan Labour Code, 2007
- Law on Protection of Child Rights, 2019

Prohibition on Forced and Compulsory Labour

Forced labour is prohibited under the law. According to the Constitution, no person shall be engaged in forced labour. However, active participation in times of war, calamities and other circumstances that threaten public life are among the national duties of every Afghan citizen. The article further prohibits imposition of forced labour on children.

Afghanistan Labour Code prohibits forced labour. Work that the employee is obliged to perform against their will is deemed to be forced. However, work that is required under the law should not be deemed to be forced labour.

Law on Protection of Child Rights defines forced labour as the work or service imposed on a child causing harm to their well-being, education, physical or mental health or sentimental or social development of a child. However, provisions for the kind of forced labour and sanctions against forced labour could not be located.

Source: §40 of The Constitution of the Islamic Republic of Afghanistan; §4 of the Afghanistan Labour code, 2007; Law on the Protection of Child Rights, 2019

Freedom to Change Jobs and Right to Quit

Under the labour act, an employee may annul an indefinite term contract by sending a one-month written notice to the enterprise. Before expiry, an employee may annul the fixed-term contract with or without notice when

1. If the administration has breached the obligation of the employment contract or provisions of this law.
2. The employee has a prolonged and incurable illness, disability or other excuses that hinder performance.
3. The employee legal representative must provide a written notice to the Ministry of Labour and Social Affairs regarding termination to avoid any possible disagreement.

The Constitution declares work as the right of every Afghan. Choice of occupation and craft is free within the bounds of the law.

Source: §48 of the Constitution of the Islamic Republic of Afghanistan, 2004; §24 of the Afghanistan Labour Code, 2007

Inhumane Working Conditions

Under the Afghanistan Labour Code, normal working hours during the course of the year shall not exceed 40 hours per week. Overtime hours shall not exceed the average of normal working hours during the day which ranges between six to eight working hours. The maximum working hours inclusive of overtime are unidentified in Afghanistan.

Source: §30 & 38 of the Afghanistan Labour Code, 2007

13/13 TRADE UNION

ILO Conventions

Freedom of association and protection of the right to organize: Convention 87 (1948)
Right to Organize and Collective Bargaining: Convention 98 (1949)

Afghanistan has not ratified any of the above-mentioned Conventions.

Summary of Provisions under ILO Conventions

Freedom of association means freedom to join a trade union. This is part of the fundamental human rights. Employees may not be put at a disadvantage when they are active in the trade union outside working hours. The list of exclusions for sectors of economic activity and workers in an organization should be short.

Trade unions are entitled to negotiate with employers on term of employment without hindrance. The freedom of a trade union to negotiate with employers to try and conclude collective agreements is protected. (The ILO has a special procedure for handling complaints from unions about violation of this principle).

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.

Regulations on trade unions:

- The Constitution of the Islamic Republic of Afghanistan, 2004
- Afghanistan Labour Code, 2007
- The law on Assemblies, Strikes and Demonstrations, 2003

Freedom to Join and Form a Union

The Constitution grants the right to freedom of association to the citizens of Afghanistan.

The Labour Code grants employees the right to participate in labour unions. It defines employees' unions and employer's unions as social organizations that are established through voluntary participation of the relevant classes according to the provisions of social organizations law. Under the law, the unions cannot be financed or subsidized by the government or political organizations.

The Law on Social Organizations allows Afghan citizens who are at least 18 years of age to join social organizations which are the volunteer union of natural persons, formed with the purpose of pursuing social, cultural, scientific, legal, literary, artistic, and professional objectives in accordance with the provisions of this Law.

Source: §35 of the Constitution of the Islamic Republic of Afghanistan, 2004; §147 Afghanistan Labour Code, 2007; §2 of the Law on Social Organizations, 2003

Freedom of Collective Bargaining

No Provisions are Located.

Right to Strike

The 2003 Law on assemblies, strikes and demonstrations defines a strike as abstaining from work or not performing one's duty, a right people exercise to further specific interests and goals. The law grants the Afghan citizens the right to hold gatherings, strikes and demonstrations without the bearing of weapons for peaceful and lawful goals that are not against the national unity and the constitution. The bearing of any weapon is prohibited and the bearer should be arrested and prosecuted. Participation in such gatherings, strikes and demonstrations should be voluntary and not for some personal or group benefit.

Provisions of the right to strike for the public and private sector, conditions to initiate strike and replacement of striking workers could not be located.

Source: §2-4 & 22 of the Law on Assemblies, Strikes and Demonstrations, 2003

QUESTIONNAIRE

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Check

DecentWorkCheck Afghanistan is a product of
WageIndicator.org and www.mywage.org/afghanistan



National Regulation exists



National Regulation does not exist

01/13 Work & Wages

	NR	Yes	No
1. I earn at least the minimum wage announced by the Government		<input type="checkbox"/>	<input type="checkbox"/>
2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)		<input type="checkbox"/>	<input type="checkbox"/>

02/13 Compensation

3. Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate)</i>		<input type="checkbox"/>	<input type="checkbox"/>
4. Whenever I work at night, I get higher compensation for night work		<input type="checkbox"/>	<input type="checkbox"/>
5. I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>

03/13 Annual Leave & Holidays

7. How many weeks of paid annual leave are you entitled to?*		<input type="checkbox"/> 1 <input type="checkbox"/> 2	<input type="checkbox"/> 3 <input type="checkbox"/> 4+
8. I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>

04/13 Employment Security

10. I was provided a written statement of particulars at the start of my employment		<input type="checkbox"/>	<input type="checkbox"/>
11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature <i>Please tick "NO" if your employer hires contract workers for permanent tasks</i>		<input type="checkbox"/>	<input type="checkbox"/>
12. My probation period is only 06 months		<input type="checkbox"/>	<input type="checkbox"/>
13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)		<input type="checkbox"/>	<input type="checkbox"/>
14. My employer offers severance pay in case of termination of employment <i>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</i>		<input type="checkbox"/>	<input type="checkbox"/>

05/13 Family Responsibilities





15. My employer provides paid paternity leave <i>This leave is for new fathers/partners and is given at the time of child birth</i>		<input type="checkbox"/>	<input type="checkbox"/>
16. My employer provides (paid or unpaid) parental leave <i>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</i>		<input type="checkbox"/>	<input type="checkbox"/>
17. My work schedule is flexible enough to combine work with family responsibilities <i>Through part-time work or other flex time options</i>		<input type="checkbox"/>	<input type="checkbox"/>

06/13 Maternity & Work





18. I get free ante and post natal medical care		<input type="checkbox"/>	<input type="checkbox"/>
19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work		<input type="checkbox"/>	<input type="checkbox"/>
20. My maternity leave lasts at least 14 weeks		<input type="checkbox"/>	<input type="checkbox"/>

* On question 7, only 3 or 4 working weeks is equivalent to 1 "YES".





DECENTWORKCHECK.ORG

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 21. | During my maternity leave, I get at least 2/3rd of my former salary |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | I am protected from dismissal during the period of pregnancy
<i>Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity</i> |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | I have the right to get same/similar job when I return from maternity leave |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | My employer allows nursing breaks, during working hours, to feed my child |  | <input type="checkbox"/> | <input type="checkbox"/> |





07/13 Health & Safety

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 25. | My employer makes sure my workplace is safe and healthy |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | My employer provides protective equipment, including protective clothing, free of cost |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | My employer provides adequate health and safety training and ensures that workers know the health hazards and different emergency exits in the case of an accident |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |









08/13 Sick Leave & Employment Injury Benefits

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 29. | My employer provides paid sick leave and I get at least 45% of my wage during the first 6 months of illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 30. | I have access to free medical care during my sickness and work injury |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 31. | My employment is secure during the first 6 months of my illness |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. | I get adequate compensation in the case of an occupational accident/work injury or occupational disease |  | <input type="checkbox"/> | <input type="checkbox"/> |

09/13 Social Security

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 33. | I am entitled to a pension when I turn 60 |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 34. | When I, as a worker, die, my next of kin/survivors get some benefit |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 35. | I get unemployment benefit in case I lose my job |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 36. | I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident |  | <input type="checkbox"/> | <input type="checkbox"/> |

10/13 Fair Treatment

- | | | | | |
|-----|--|---|--------------------------|--------------------------|
| 37. | My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 38. | My employer take strict action against sexual harassment at workplace |  | <input type="checkbox"/> | <input type="checkbox"/> |
| 39. | I am treated equally in employment opportunities (appointment,promotion, training and transfer) without discrimination on the basis of:* |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Sex/Gender |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Race |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Colour |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Religion |  | <input type="checkbox"/> | <input type="checkbox"/> |
| | Political Opinion |  | <input type="checkbox"/> | <input type="checkbox"/> |

* For a composite positive score on question 39, you must have answered "yes" to at least 9 of the choices.

	Nationality/Place of Birth	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Social Origin/Caste	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Family responsibilities/family status	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Age	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Disability/HIV-AIDS	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Trade union membership and related activities	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Language	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Orientation (homosexual, bisexual or heterosexual orientation)	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Marital Status	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Physical Appearance	☹️	<input type="checkbox"/>	<input type="checkbox"/>
	Pregnancy/Maternity	☹️	<input type="checkbox"/>	<input type="checkbox"/>
40	I, as a woman, can work in the same industries as men and have the freedom to choose my profession	😊	<input type="checkbox"/>	<input type="checkbox"/>

11/13 Minors & Youth

41.	In my workplace, children under 15 are forbidden	😊	<input type="checkbox"/>	<input type="checkbox"/>
42.	In my workplace, children under 18 are forbidden for hazardous work	😊	<input type="checkbox"/>	<input type="checkbox"/>

12/13 Forced Labour

43.	I have the right to terminate employment at will or after serving a notice	😊	<input type="checkbox"/>	<input type="checkbox"/>
44.	My employer keeps my workplace free of forced or bonded labour	😊	<input type="checkbox"/>	<input type="checkbox"/>
45.	My total hours of work, inclusive of overtime, do not exceed 56 hours per week	😊	<input type="checkbox"/>	<input type="checkbox"/>

13/13 Trade Union Rights

46.	I have a labour union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
47.	I have the right to join a union at my workplace	😊	<input type="checkbox"/>	<input type="checkbox"/>
48.	My employer allows collective bargaining at my workplace	☹️	<input type="checkbox"/>	<input type="checkbox"/>
49.	I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination	☹️	<input type="checkbox"/>	<input type="checkbox"/>

DECENTWORKCHECK.ORG

Results

Your personal score tells how much your employer lives up to national legal standards regarding work. To calculate your DecentWorkCheck, you must accumulate 1 point for each YES answer marked. Then compare it with the values in Table below:



is your amount of "YES" accumulated.

Afghanistan scored 35 times "YES" on 49 questions related to International Labour Standards

If your score is between 1 - 18

This score is unbelievable! Does your employer know we live in the 21st century? Ask for your rights. If there is a union active in your company or branch of industry, join it and appeal for help.

If your score is between 19 - 38

As you can see, there is ample room for improvement. But please don't tackle all these issues at once. Start where it hurts most. In the meantime, notify your union or WageIndicator about your situation, so they may help to improve it. When sending an email to us, please be specific about your complaint and if possible name your employer as well. Also, try and find out if your company officially adheres to a code known as Corporate Social Responsibility. If they do, they should live up to at least ILO standards. If they don't adhere to such a code yet, they should. Many companies do by now. You may bring this up.

If your score is between 39 - 49

You're pretty much out of the danger zone. Your employer adheres to most of the existing labour laws and regulations. But there is always room for improvement. So next time you talk to management about your work conditions, prepare well and consult this DecentWorkCheck as a checklist.