



YEMEN

Decent Work Check 2019

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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 practiced, 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, which are deemed important in attaining "decent work". The work makes the rather 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 gives a score to 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. Workers can compare their own 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.

Decent Work Check is useful 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 useful for researchers, labour rights organizations conducting surveys on the situation of rights at work and general public wanting to know more about the world of work. WageIndicator teams, around the world, 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 workers, self-employed, employee, employer, policy maker, 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, rise of precarious employment and measuring the impact of regulatory regimes.

Currently, there are more than 100 countries for which a Decent Work Check is available here: www.decentworkcheck.org During 2019, the team aims to include at least 10 more countries, thus taking the number of countries with a Decent Work Check to 115!

Major Legislation on Employment and Labour

1. Constitution of Yemen
2. Law No. 35 of 2002 on the Organization of Workers' Trade Unions
3. Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)
4. Criminal Code (Act No. 12 of 1994)
5. Social Insurance Law (Law No. 26 of 1991)

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Yemen has ratified the Conventions 95 & 131 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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Minimum Wage

Minimum wages are governed under the Labour Code (Act No.5 of 1995), as amended up to Law No. 15 of 2008. There is no established minimum wage for private sector workers in Yemen. Labour Code only stipulates that the minimum wage payable to a worker cannot be less than the minimum wage payable to the public sector employees (state administration). The current minimum wage for public sector workers (civil servants) is 21,000 Rials per month.

Although the Labour Code does not specify the minimum wage for private sector workers explicitly, it does give clear provisions on the minimum wage rates for trainees (apprentices), young workers and piece rate workers.

A trainee is paid his basic wage on joining a training or rehabilitation course approved by the employer irrespective of the place of training (inside the country or abroad). Employers are required to pay fair wages to the young workers which cannot be less than two-thirds of the minimum wage paid to the adults in the occupation concerned. The Council of Minister may, acting on a submission by the Labour Minister and a recommendation from Labour Council, make an order specifying the minimum wage for certain jobs and occupations in which young workers are usually employed. Similarly, the wage rate for piece-rate workers cannot be less than the daily minimum wage specified by the occupation or industry in which workers is employed.

Sources: §52, 55 &67 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Regular Pay

The Labour Code differentiates between the "basic wage" and "full wage". Basic wage is the payment made by the employer in consideration of his work, whether in cash or in kind, which may be evaluated in currency excluding any entitlements. Full wage, on the other hand, is basic wage plus all entitlements of any kind.

Wage rates for different worker categories and jobs are determined according to the volume and type of work involved in accordance with the following guiding principles: nature of functions, duties and responsibilities; qualifications and experience required to perform the job; importance and role of work in the development and quality of production; yield of work (worker productivity); working conditions and location of workplace (hazard pay and hard area allowance); efforts made by the worker (to perform work; hard workers to be paid higher wages).

The wage payment period ranges from one week to fortnight to one month. Employers

are required to pay workers their wages and other entitlements in legal tender, i.e., Yemeni Rial, on a working day and at the workplace. Workers whose wages are calculated on hourly, daily or weekly basis are paid at least once a week. For workers whose wages are determined on a fortnightly basis are paid each fortnight and must be paid within three days of each fortnight. Workers whose wages are determined on monthly basis must be remunerated every month and their wages must be paid within six days of the end of wage period.

Employers cannot restrict disposal of remuneration by workers in any way or oblige workers to purchase goods produced by them or buy goods from some specified sources. An employer cannot withhold a worker's wages except by a judicial decision unless the worker and employer have agreed otherwise. If a worker has to pay compensation for damage or material loss he may have caused his employer by reason of shortcoming or negligence, the wage deduction cannot exceed 25% of his basic wage.

A worker must be paid his outstanding wages/dues on the day following termination of contract. If a worker leaves the service (resigns), his outstanding dues must be cleared within six days of his leaving the employment.

Pay slips are required under the law recording the details concerning the workers' wages, any deductions effected and the net wages paid. Employer is deemed to have discharged his/her obligation to pay wages once a worker has signed or finger printed the wage slip.

Sources: §54-70 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Yemen has not ratified the Conventions 01 & 171.

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 times (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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Overtime Compensation

Working hours are the hours in which an effort is exerted by a worker (physical, intellectual or both) in return for remuneration, irrespective of whether such work is permanent or temporary. If a worker reports for work but is unable to perform work due to reasons attributable to employer, he is considered to have effectively performed his work.

The normal working hours are eight hours a day and 48 hours a week. During the month of Ramadan, the working hours are reduced and daily and weekly limit of six hours and 36 hours respectively is observed.

Reduced working hours apply in the case of arduous and hazardous work (under an Order by the Minister, if any), young workers (seven hours), and pregnant as well as breastfeeding workers (five hours from sixth month of pregnancy to six months after childbirth). The working time for pregnant and breastfeeding workers may be further reduced for health reasons on the basis of a certified medical report.

Total working hours, inclusive of overtime, are 12 hours per day. Labour Code does not clearly provide for weekly overtime as well as maximum hours limits. If a worker is engaged in overtime work on a normal working day, he/she is entitled to 150% of normal wage rate for every hour of overtime (50% premium). If a worker is engaged in overtime work during night hours, he/she is entitled to 200% of normal wage for every hour of overtime (100% premium). Workers being engaged in overtime work are also entitled to compensatory rest at the rate of one and a half times for overtime on normal working days (90 minutes of compensatory rest for every 60 minutes of overtime work) and double time for overtime during night hours (120 minutes of compensatory rest for every 60 minutes of overtime work).

Employers are required to post at the main entrance to the workplace and in a visible place inside the workplace a table showing working hours, periods of rest and leave, and weekly closing times.

Sources: §2, 43, 48, 56 & 71-75 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Night Work Compensation

Night Work is the work that is performed between 20:00 and 05:00. Night work even includes hours of day-time work when these overlap with night hours at the end of the day for at least half an hour. A worker must not be assigned to night work continuously for more than one month. There is a provision for night work premium and a worker is entitled to an allowance equivalent to 15% of his basic wages for hours of night work. A

worker is entitled to night work allowance only if he works for a period exceeding ten days (consecutive or non-consecutive). The overtime rate for night workers is also higher when compared with overtime rate of day time workers (200% of the normal wage rate). Workers involved in overtime work during night hours are also entitled to compensatory rest with pay at the rate of double time for every hour of overtime.

It is prohibited to employ women at night, except during the month of Ramadhan and in the jobs that are specified by order of the Minister.

Sources: §46, 56, 57 & 73 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Compensatory Holidays / Rest Days

Workers may be required to work on weekly rest days and public holidays to increase production or to provide public services and in the event of a disaster or to prevent a disaster, or to maintain work-related or industrial equipment or in the public interest.

Workers must be given compensatory rest (two-times the hours worked) for working on weekly rest days, official holidays and days of leave. Employers are required to grant compensatory rest periods within period of one month.

Sources: §74 & 75 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays to increase production or to provide public services and in the event of a disaster or to prevent a disaster, or to maintain work-related or industrial equipment or in the public interest.

Wages for such days are calculated as follows: Two hours basic wages per hour of work (premium is 200% of the normal wage rate) on official /public holidays and on weekend in addition to entitlement to standard wages for such holidays.

Sources: §56 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

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.

Yemen has ratified the Conventions 14 & 132 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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Paid Vacation / Annual Leave

Workers are entitled to the annual leave of at least 30 days with full pay for each calendar year, calculated on the basis of at least two-and-a-half days for each month of service. Public holidays falling within a worker's period of annual leave are not counted as part of annual leave. In order to be entitled to annual leave, a worker must have completed one year of service.

Employers must award workers the leave they are entitled to annually. Employer, however, may carry over a worker's half leave entitlement (at least 15 days) to the following year, for reasons related to the interests of both parties. Any more favourable circumstances concerning workers' leave entitlements and rates remain in force. Splitting of annual leave is allowed and minimum annual leave granted at one time cannot be less than two days. Annual leave entitlement for certain occupations and categories of workers can be increased by Order of the Minister.

Workers are entitled to their full wages during the term of annual leave. A worker cannot receive compensation in lieu of annual leave except in the case of employment termination. A worker should not engage in paid employment during the term of his/her annual leave. If it is established that a worker worked during annual leave period, an employer may claim reimbursement of said leave provided that it does not lead to termination of employment.

Sources: §79 & 88 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Pay on Public Holidays

Public holidays are paid rest days of religious or memorial nature. Yemen has fifteen such holidays. These are Labour Day (May 1), Unity Day (May 22), Revolution Day I (September 26), Revolution Day II (October 14), Yemen Independence/Evacuation Day (November 30), Eid al Adha (5 days), Eid al Fitr (4 days), and Muharram 1/Islamic New Year's Day (one day).

Mawlid/Birthday of the Prophet PBUH (one day), Meraj un Nabi (Ascension of the Prophet PBUH-one day) and 7th July are not official holidays. Dates of Muslim festivals are subject to sighting of moon and thus are liable to change.

Public holidays are paid days and if a worker is required to work on a public holiday, he is entitled to 200% of the normal wage in addition to entitlement to standard wages for such holidays.

Sources: §56 & 78 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008); Public Holidays Law No. 2 of 2000

Weekly Rest Days

Since the weekly hours of work are distributed over six working days, workers are entitled to one day (24 hours) of rest which is Friday. Friday may be exchanged for another day of the week as weekly rest day for all of some workers if work so requires.

Sources: §71 & 77 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008); Public Holidays Law No. 2 of 2000

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Yemen has ratified the 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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Written Employment Particulars

Employment contracts are regulated under the Labour Code. A contract of employment is the agreement between a worker and employer whereby a worker undertakes to work under the direction and supervision of the employer in consideration of a remuneration. Labour Code requires employment contracts to be in writing. A written employment contract is drawn up in three copies (signed by all the parties), one copy each for the worker, the employer and the competent office of the Ministry. In the absence of written contracts, an employee has to establish his rights through any admissible evidence.

An employment contract must specify the following: remuneration; work description; workplace; commencement date; and duration of employment contract. Contracts for working in cooperatives are considered employment contracts and each worker receives a copy of such contract on commencement of work. A worker may request an employer to provide him with a receipt for any (personal) documents, records or certificates entrusted to him. In order to apply different contractual provisions, an employer must devise and follow procedures, a copy of which is issued to the worker.

It is forbidden for a foreign worker to work in Yemen unless he has an official work permit issued by the Ministry or one of its offices. Employers are also prohibited from employing foreign workers without employment permits. The number of foreigners working for an employer cannot exceed 10% of total Yemeni workforce. The ratio can be increased or reduced in accordance with guidelines decided by the Council of Ministers.

Employment of a foreign worker is prohibited if he previously worked in Yemen and was dismissed for misconduct or for having been sentenced by a court; he left the services of his employer (resigned); entered the country for reasons other than work (and is without work permit); and the Ministry ascertains the possibility of nominating a local (Yemeni) worker to the advertised vacancy.

Sources: §19-26 & 79 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Fixed Term Contracts

Employment contracts are regulated under the provisions of Labour Code and Civil Code (Law No. 14 of 2002: Articles 781-825).

Employment contracts are generally concluded for indefinite period unless agreed otherwise between the parties (in the case of Yemeni workers). The foreign workers (non-Yemenis) are employed for fixed term and duration or task is specified

beforehand. If the employment relationship continues after expiry of an employment contract, the contract is considered extended/renewed for additional term. If the parties are in the process of negotiating an expired employment contract, its duration is automatically extended for a period of three months.

There are no statutory limitations on the use and renewal of fixed term contracts. Labour Code neither specifies the maximum term of a single fixed term employment contract nor does it put any limit on its subsequent renewals. Thus labour code does not put any limits on the hiring of fixed term contract workers for tasks of permanent nature.

Sources: §29 & 40 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Probation Period

After signing a contract of employment, a worker may be subjected to a period of probation of maximum six months. The probation period must be clearly specified in the employment contract. Employer is prohibited to place a worker on probation more than once for same job (no possibility for renewal). An employer may terminate an employment contract without notice or payment in lieu of notice if a worker fails to prove his competence for job during his probationary period.

Sources: §28 & 35 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Notice Requirement

Termination of employment contract is regulated under the provisions of Labour Code. Employment may be terminated with or without notice. An employment contract may be terminated without prior notice to either of the contracting parties if both the parties agree in writing to terminate the contract; on expiry of fixed term contract unless it is implicitly renewed through effective continuation of the employment relationship; final judgment by court to terminate the contract; and in the event of death of a worker.

Labour Code provides for a long and exhaustive list of cases in which both worker and employer may unilaterally terminate the employment contract (summary dismissals). Labour Code also lists the situations in which the contract terminating party must give notice to the other party before contract termination. These situations include: failure of the either party to observe the terms of contract or labour legislation (employee related reasons: conduct or capacity); permanent cessation of work, entirely or in part (economic reason); reduction in the number of workers for proven technical or economic reasons; absence for more than 30 days within the same year or for 15 consecutive days (without legitimate reason) provided that the termination is preceded by a written warning from employer after 15 days of absence in the former case and seven days in the latter (conduct related); employee reaching the statutory retirement

age; and if the worker is declared unfit to work by decision of a competent medical committee (capacity related).

The required notice that a contract terminating party has to give to the other party is equivalent to the period prescribed for the payment of wages (wage payment period ranging from week to fortnight to month) or pay wages in lieu of such notice. The notice period is calculated as follows: 30 days for workers with monthly wages; 15 days for workers with fortnightly (15 days) wages; one week for workers working on hourly, daily or weekly rates, or piece rate or on the basis of production. If a worker's wages are calculated on daily, hourly, weekly, fortnightly basis, and piece rate basis but paid at the end of each month, the period of notice is 30 days.

Sources: §35 & 41 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Severance Pay

On the termination of employment, a worker is entitled to a monthly pension or a lump-sum payment in accordance with the provisions of Social Insurance Act or other special regulations whose provisions are more favourable to the worker.

If a worker is not covered under the Social Insurance Act, he is entitled to receive severance pay from the employer at the rate of at least one month's wage for each year of service. Severance pay is calculated on the basis of the last wage received by the employee. Labour Code does not differentiate between individual and collective dismissal in the case of severance pay. Thus, it can be safely assumed that the above referred severance pay is payable on both individual and collective dismissals. If a worker is dismissed arbitrarily by the employer or if a worker terminates the employment contract without notice due to the misconduct of the employer, he is entitled to compensation of maximum 6 months' wages.

Sources: §39 & 120 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Yemen has ratified the Convention 156 only.

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:

Paternity Leave

No provision could be located in law regarding paternity leave.

Parental Leave

No provision could be located in law regarding parental leave.

Flexible Work Option for Parents / Work-Life Balance

In Yemeni Law, there is no specific provision for flexible working time for parents of minor children.

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.

Yemen has not ratified the Conventions 103 & 183.

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 breast-feeding the child.

Regulations on maternity and work:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Free Medical Care

Medical benefits are provided only for the public sector employees under the health insurance program. Employers must protect their employees by providing free of cost medical treatment and related requirements to all workers (including Pregnant worker) of enterprise in accordance with the provisions of Labour Code.

Sources: §119 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

No Harmful Work

For pregnant as well as breastfeeding workers (from sixth month of pregnancy to six months after childbirth), daily working time is reduced to five hours a day. The working time may be further reduced for health reasons on the basis of a certified medical report. It is prohibited to assign a pregnant (from sixth month) and breastfeeding worker (until 6 months after delivery) to overtime work. Employment of women is generally prohibited during night hours except during the month of Ramadhan and in the jobs that are specified by order of the Minister

It is prohibited to employ women in industries and occupations that are harmful or hazardous, arduous to their health or social standing. Such occupations are specified the order of the Minister.

An employer must protect a pregnant worker from any risks that may harm her health or her pregnancy, and grant her the right to have any treatment or compensation.

The risks that the employer must protect the pregnant working woman from, include for example the following hazards: hazards from devices or harmful radiation; hazards from vibration and noise; hazards from air pressure".

Sources: §44, 46 & 47 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Maternity Leave

A pregnant worker has the right to take maternity leave with full pay for a period of 70 days. Labour Code does not specify any qualifying conditions for access to maternity leave. Similarly, it does not differentiate between the pre-natal and post-natal leave. A pregnant worker cannot be made to work during the period of her maternity leave.

There is also provision for extension of maternity leave (by 20 days) if the labour (delivery of child) was difficult, as certified by a medical certificate (caesarian) and if she

has given birth to twins.

Sources: §45 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Income

Pregnant workers have the right to receive compensation for maternity leave. Pregnant Workers are paid their full wages (100%) during the term of maternity leave, i.e., 70 days to maximum 90 days. Maternity leave is paid by the employer.

Sources: §45 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Protection from Dismissals

According to Act 37 of Labour Code, It is prohibited for an employer to terminate a worker for availing any of the leaves provided under the Labour Code and relevant regulations. Thus these provisions are applicable to maternity leave as well. In a later amendment to Labour Code (in 2008), it has been clearly stated that a woman worker cannot be dismissed during her maternity leave.

Sources: §37 & 45 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Right to Return to Same Position

There is no clear provision on the right to return to same position after availing maternity leave. However, it is implicit in the protection from dismissal provision, stated in article 37 & 45 of Labour Code.

Breastfeeding

There is no provision on breastfeeding breaks in the Labour Code. However, since the working hours of breastfeeding mothers (until the child reaches the age of 6 months) are reduced to five hours (from 8 hours per day), it can be assumed that these three hours are taken as rest and breastfeeding breaks for new mothers. Employers are required to provide a special place for women for leisure and praying.

Labour Code also requires the employer to establish a child care facility in an enterprise if it employs more than women. The conditions of establishment of day care facility are determined by a decision of the competent Minister.

Sources: §43 & 45 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

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)

Yemen has ratified the Convention 81 only.

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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Employer Cares

An employer is required to ensure the health and safety of workers at the workplace as provided under the Labour Code.

Employers are required to observe following rules to ensure health and safety workplace: workplace health and safety conditions are maintained in conformity with occupational safety and health requirements; workplace is properly ventilated and adequately lighted during working hours in accordance with the OSH standards established by relevant government authorities; necessary precautions are taken to protect workers from such damage to their health as may be caused by any of the emissions or wastes (gas, dust, smoke, etc.); necessary precautions are taken to protect workers against the hazards of equipment and machinery; the necessary precautions are taken to deal with fires and provide fire-fighting equipment including emergency exits and maintained in working order at all times.

Sources: §114 & 118 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Free Protection

The right to personal protective equipment (PPE) is ensured under the Labour Code.

Employers are required to take necessary precautions to protect workers and ensure their safety against such hazards as may arise from work and machinery in use. An employer may not deduct any amount from their wages in consideration of the provision of protective devices, equipment and clothing to protect workers from exposure to occupational injuries and diseases; expenses incurred on account of workers' medical examinations as necessitated by occupational safety and health requirements; and the provisions of first aid equipment at the workplace.

Sources: §115 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Training

Labour Code requires the employers to provide training to the employees on OSH issues.

Employer is required to advise and inform workers, before commencement of work, on work-related and occupational hazards and on the preventive procedures which must be observed at work; provide continuous guidance to workers and monitor their observance of OSH standards; display in visible place the instructions, guidance and posters explaining work related and occupational hazards and methods of preventing

them; and increase workers' awareness of OSH standards and make workers participate in training courses and seminar on such matters.

Sources: §118 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Labour Inspection System

Labour inspection system falls under the purview of Ministry of Social Affairs & Labour and two the Ministry's administrations have direct responsibilities related to inspection, i.e., the General Administration of Labour Inspection (GALI) and the General Administration of Occupational Safety and Health (GAOSH). Labour inspectors ensure the compliance of labour legislation and other orders issued by the Ministry.

The Civil Defence Authority (under Ministry of Interior) also conducts preliminary inspections prior to licensing of the new enterprises, routine periodic inspections as well inspections on employer's request for guidance. The General Corporation of Social Insurance also conducts inspections to ensure compliance with Social Insurance Law. Yemen has ratified the labour inspection convention.

The sectors covered by the Labour Code are subject to inspection. Employers are required to facilitate the work of labour inspectors and provide them with all such information and data for purposes of inspection. Labour inspectors supervise the application of labour legislation and regulations, of contracts and agreements, and of all instruments issued by the Ministry, including orders and written notification to employers regarding violations and requests for remedial action, and draw up records of violations, if they are repeated, in preparation for their referral to the competent Arbitration Committee; prepare detailed reports on the results of every inspection visit, supported by such opinions and suggestions as may assist in remedying any shortcomings; and participate in establishing an understanding of relationships between workers and employers and provide them with information to enable them to understand the provisions of labour legislation and their proper application.

Labour Code gives the inspectors the right to ask for a ministerial decision for temporary suspension of any machine considered as a source of hazards for one week. The minister should refer the matter to the Arbitration Committee if suspension needs to be extended.

Sources: §122-127 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

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

Yemen 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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Income

Paid sick leave is provided under the Labour Code. In the event of sickness, workers are entitled to continuous or non-continuous sick leave on the following basis: full pay for the first two months of sickness; 85% of pay for the third and fourth months of sickness; 75% of pay for fifth and sixth months of sickness; and 50% of wages for the seventh and eighth months of sickness.

A worker may also use up the balance of annual leave entitlement after using all of sick leave entitlement. If a worker has exhausted both his annual leave (30 days) and sick leave (eight months) entitlement, he may be granted leave without pay until he recovers or the competent authorities establish that he is no longer medically fit for work. The period a worker spends in hospital for treatment is considered as sick leave.

Sick leave is granted if it is certified by a doctor appointed by employer to treat workers or by a medical institution with which the employer has concluded an agreement for that purpose; or if it is certified by a medical establishment in the Republic; or if it is certified by an emergency clinic or any other hospital in the area.

If a worker's sick leave is certified by a private medical practice or institution, the employer may request its confirmation by the competent medical authorities. If medical leave exceeds ten days, the employer may request a medical authority or his appointed doctor to certify such sick leave.

Sources: §80-82 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Medical Care

Medical benefits are provided only for the public sector employees under the health insurance program.

Employers must protect their employees by providing free of cost medical treatment and related requirements to all workers (including Pregnant worker) of enterprise in accordance with employer's medical regulations as approved by the Ministry. Medical benefits are also available under Social Insurance Law.

Job Security

It is forbidden for an employer to terminate a contract of employment during any of the worker's leave (including sick and maternity leaves) provided in the Labour Code and regulations. A worker may be terminated only if the competent authorities establish that he is no longer medically fit for work.

Sources: §37 & 80(2) of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Disability / Work Injury Benefit

Work injuries can lead to the following four situations: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker. Employers have to contribute 4% of the total payroll in order to finance work injury benefits.

In the case of full incapacity/disability, the benefit is 100% of the covered monthly salary for the last year.

If the disability is equal to or more than 30%, it is referred to as permanent partial disability. The benefit is a percentage of full pension and is paid according to the assessed degree of disability.

If the assessed degree of disability is less than 30%, the benefit is paid as lump-sum and is equal to 48 months of total disability pension.

In the event of temporary disability, worker is paid full wages for the first three months and then 75% of monthly wages until a worker recovers or is declared totally disabled.

If the injury leads to the death of the worker, the compensation is again 100% of covered monthly salary for the last year and is distributed evenly among survivors.

Source: §27-42 of Social Insurance Law (Law No. 26 of 1991)

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).

Yemen has not ratified any of the above mentioned 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:

- Social Insurance Law (Law No. 26 of 1991)

Pension Rights

Law provides for both full pension as well as early pension. The qualifying condition for old age pension is reaching the age of 60 years with at least 180 months/15 years of contributions (for men) or age of 55 years with similar years of contributions as for men. For early pension, a worker must have reached the age of 50 years with at least 25 years of contributions or age of 46 years with at least 20 years of contributions (for women). The early pension is available at any age with at least 30 years of contributions for men and 25 years of contributions for women. The old age, disability and survivors' benefits are financed by employer (9% of the payroll) and employee (6%) contributions.

There is also provision for reduced pension at the age of 50 years for men and 45 years for women with at least 20 years of contributions.

The old age pension is the insured worker's last gross monthly salary multiplied by the number of months of contributions divided by 420. The minimum pension is 50% of the insured worker's last gross salary. Early pension is calculated similarly as the old age pension. As for reduced pension, full pension is reduced by 10% if a worker retires at the age of 45 years or by 5% if a worker retires at the age of 50.

Source: §49-52 of Social Insurance Law (Law No. 26 of 1991)

Dependents' / Survivors' Benefit

Dependents' / Survivors' benefits are granted as provided under the Social Insurance Law.

Survivor pension is paid for the death of an insured person before retirement. Eligible survivors are the family members of insured person which include (spouse(s), sons, daughters, parents, brothers, sisters, and dependent nephews and nieces. The dependents' or survivors' benefit is based on the deceased worker's entitlement to either the old age or disability pension. The pension is divided equally among named survivors.

Source: §55 of Social Insurance Law (Law No. 26 of 1991)

Unemployment Benefits

There is no legal provision for unemployment benefits under the Labour Code and Social Insurance Law.

Invalidity Benefits

Invalidity Benefit is regulated under the Social Insurance Law. Disability pension is paid for permanent disability if a worker has contributed to the social insurance fund for at least 60 months/5 years. Disability grant is paid to those workers for work or non-work-related disabilities if they have paid contributions for at least one year.

The permanent disability (invalidity) pension is 50% of the covered monthly salary in the last year. A disability grant may also be paid as lump sum of 12% of the average monthly salary in the last year multiplied by the number of years of contributions.

Source: §53-54 & 56 of Social Insurance Law (Law No. 26 of 1991)

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.

Yemen has ratified both Conventions 100 & 111.

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.

Not clearly provided in ILO Conventions. However, sexual intimidation/harassment is gender discrimination.

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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)
- Law No. 35 of 2002 on the organization of Workers' Trade Unions
- Criminal Code (Act No. 12 of 1994)
- Constitution of Yemen

Equal Pay

Equal pay for equal work is regulated under the provisions of Labour Code.

Women are equal to men in all employment related conditions and rights including wages. Women workers are entitled to equal wages for performing the same work under the same conditions and specifications. Employers are further required to pay equal wages to Yemenis and non-Yemenis if their working conditions, qualifications, experience and competence are the same.

Source: §42 &67 of Labour Code (Act No. 5 of 1995, as amended up to Law No. 15 of 2008)

Sexual Harassment

There is no specific law in Yemen addressing sexual harassment, however §270-274 of the Criminal Code stipulate that anyone who commits an offending or disgraceful act in public (any act which offends public morality or honour, exposes private areas or involves speaking indecently) can be sentenced to up to six months in prison or fines (1,000 Yemeni Rial). The punishment rises to up to one year in prison and fines for forcing a female to behave immorally.

The law does not protect explicitly against sexual harassment however it gives a worker the right to terminate his/her employment contract without prior notice when the employer (or his/her representative) commits a morally offensive act (which includes sexual harassment) or assault him/her or any of his/her family members.

Source: §35(2) of Labour Code (Act No. 5 of 1995, as amended up to Law No. 15 of 2008); §270-274 of Criminal Code (Act No. 12 of 1994)

Non-Discrimination

In accordance with article 24 of the Yemeni Constitution, " the state shall guarantee equal opportunities for all citizens in the fields of political, economic, social and cultural activities and shall enact the necessary laws for the realization thereof". Article 40 guarantees equality in rights and duties for all citizens.

The Labour Code guarantees equal rights without any discrimination on grounds of sex, age, race, colour, beliefs and language. Women are equal to men in relation to all conditions of employment and employment rights, duties and relationships, without

any discrimination. Women are equal with men in employment, promotion, wages, training and rehabilitation and social insurance. The requirements of job or occupational specifications are not considered as discrimination.

Labour Code creates opportunities for disabled persons by imposing an obligation upon employers, according to their resources and available opportunities, to employ up to a proportion of 5 per cent of their total workforce in jobs and professions suited to their capabilities and potential.

A union member cannot be punished or transferred or dismissed or suspended because of his trade union activities or trade union membership

sources: 5, 15 & 42 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008); Law No. 35 of 2002 on the organization of Workers' Trade Unions

Equal Choice of Profession

In accordance with article 29 of the Yemeni Constitution, "work is a right, an honour, and a necessity for society's progress. Every citizen has the right to choose the appropriate work for himself within the law. No citizen can be compelled to do any work except within the law, and in which case it is to serve the common interest and be in return for a fair wage". Labour Code however prohibits to employ women in industries and occupations which are hazardous, arduous or harmful to their health or social standing. The occupations prohibited are specified by order of the Minister. Ministerial Decree No. 39 specifies the jobs and industries that women should not engage in.

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Yemen has ratified both Conventions 138 & 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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Minimum Age for Employment

Under section 5 of Ministerial Order No. 56 of 2004, the minimum age for entering employment is not less than the age of completion of compulsory education. A new Ministerial Order No. 11 has been issued in 2013 (repealing Ministerial Order No. 56 of 2004) according to which the minimum age for entering employment, which is free of any hazards, may not be lower than the age of completion of compulsory education (15 years) and may not be lesser than 14 years in any case. Labour Code also defines a young person as a male or female under the age of 15 years. In accordance with §10 of Ministerial Order No. 11, children aged between 14 and 18 years may perform light work, provided that such work should not jeopardize their mental and physical health and should not affect their school attendance on a regular basis.

In accordance with section 15 of Ministerial Order No. 11, the daily working hours cannot exceed six hours with one or more rest periods of a minimum of one hour.

The Labour Code however provides that the total working hours of a young worker are seven hours a day and 42 hours a week, distributed over 6 days. Overtime and night work is prohibited for young workers except in those jobs specified by the order of the Minister. Employers are prohibited to require a young person work during his weekly periods of rest, official holidays and other leave periods.

It is forbidden to employ a young person without his guardian's approval and without notifying the competent office of the Ministry. A young person is entitled to 30 days of annual leave for each year of service calculated on the basis of two and a half days per month of service. It is prohibited for a young person or guardian to waive annual leave entitlement or any part thereof in consideration of compensation. Employers are required to pay young person's fair wages in consideration of their work (which is at least two-third of the minimum wage for adult workers). A ministerial order may be issued specifying minimum wages for certain occupations and jobs in which young persons are employed.

Sources: §2, 17 & 48-53 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Minimum Age for Hazardous Work

Minimum age for hazardous work is 18 years. Section 7 of Ministerial Order No. 11 provides a list of 42 industries and occupations, including domestic work, work related to agriculture, fishing, textiles, X-ray and nursing establishments, working with iron and aluminium saws; mechanical work and construction, which are prohibited for children under 18 years. Moreover, section 8 prohibits carrying, pulling or pushing heavy weights while section 15 prohibits night work and overtime work for children under 18 years. In accordance with section 24 of Ministerial Order No. 11, any person who incites a child under the age of 18 years to use, trade or promote drugs, particularly the trafficking of drugs is sentenced to imprisonment for a minimum of five years and a maximum of eight years.

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.

Yemen has ratified both Conventions 29 & 105.

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:

- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Prohibition on Forced and Compulsory Labour

In accordance with article 29 of the Yemeni Constitution, " No citizen can be compelled to do any work except within the law, and in which case it is to serve the common interest and be in return for a fair wage". Forced labour is prohibited under Ministerial Decree No. 56 of 2004 as well.

Restraints on individual freedom or keeping others in slave like conditions is prohibited under section 246 (unlawful detention or deprivation of liberty) and section 248 (buying, selling or disposing of any person in any way or trafficking in persons for the purpose of exploitation) of Law No. 12 of 1994 (the Criminal Code).

Freedom to Change Jobs and Right to Quit

In accordance with article 29 of the Yemeni Constitution, " No citizen can be compelled to do any work except within the law, and in which case it is to serve the common interest and be in return for a fair wage".

The required notice that a contract terminating party has to give to the other party is equivalent to the period prescribed for the payment of wages (wage payment period ranging from week to fortnight to month) or pay wages in lieu of such notice. The notice period is calculated as follows: 30 days for workers with monthly wages; 15 days for workers with fortnightly (15 days) wages; one week for workers working on hourly, daily or weekly rates, or piece rate or on the basis of production. If a worker's wages are calculated on daily, hourly, weekly, fortnightly basis, and piece rate basis but paid at the end of each month, the period of notice is 30 days.

A worker may also unilaterally terminate his employment contract without prior written notice to the employer in the following cases: employer or his representative misled the worker about employment conditions while concluding employment contract; employer or his representative commits a morally offensive act towards the worker or a member of his family; employer or his representative assaults the worker; in the event of a serious threat to the safety or health of the worker provided that the employer is aware of the said threat and has not adopted safety measures; employer fails to perform his contractual obligations towards the worker; employer substantially changes the job for which the worker was employed, without his consent.

Sources: § 35(2) & 38 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Inhumane Working Conditions

The normal working hours are eight hours a day and 48 hours a week. During the month of Ramadan, the working hours are reduced and daily and weekly limit of six hours and 36 hours respectively is observed.

Total working hours, inclusive of overtime, are 12 hours per day. Labour Code does not clearly provide for weekly overtime as well as maximum hours limits. Thus the total hours of work may exceed 60 hours per week.

Sources: §71 & 74 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

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)

Yemen has ratified the Conventions 87 & 98.

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:

- Law No. 35 of 2002 on the Organization of Workers' Trade Unions
- Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Freedom to Join and Form a Union

Right to form associations and join unions is guaranteed under the Constitution. In accordance with article 57 of the Constitution, "In as much as it is not contrary to the Constitution, the citizens may organize themselves along political, professional and union lines. They have the right to form associations in scientific, cultural, social and national organizations in a way that serves the goals of the Constitution. The state shall guarantee these rights, and shall take the necessary measures to enable citizens to exercise them. The state shall guarantee freedom for the political, trade, cultural, scientific and social organizations". The Constitution, its article 29, further stipulates that the law shall regulate union activities and professional work, and the relationship between workers and employers.

Freedom to join and form unions is regulated under the Law No. 35 of 2002 on the Organization of Workers' Trade Unions and Labour Code.

Workers and employers have the right to freely establish and join organizations to protect their interests, rights and to represent all the matters in front of councils/bodies and in meetings.

Trade unions and employer have the right to carry on their activities without any outside interference. Workers' representatives on a trade union committee cannot be dismissed for carrying out their activities according to the Labour Code, the Trade Unions Act and also the rules and regulations made there under.

Source: Law No. 35 of 2002 on the Organization of Workers' Trade Unions; §151-152 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Freedom of Collective Bargaining

Right to collective bargaining is guaranteed under the Labour Code. Trade unions are authorized to conclude collective agreements with the employer.

A collective labour agreement (collective contract of employment) is drawn up in three copies (one for each of the parties to agreement and third for registration at the competent office of the Ministry) according to the model established by the Ministry and includes the basic terms and conditions related to working conditions, employer obligations regarding salary and the procedure for their payment, financial incentives, working hours and rest, terms regarding protection of service, specifications of the occupations covered by the agreement and any other conditions on which the employer and the trade union committee may agree complying with the legislation in force.

In order to make a collective agreement valid, the union committee or workers' representatives have to collectively discuss, agree upon and sign the draft collective agreement at a general meeting. Once a collective agreement is signed, it is binding on all the parties. A collective agreement is not in force until it is reviewed and registered by the Ministry or its competent office.

Sources: §32-34 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)

Right to Strike

The right to strike is guaranteed and regulated under the Labour Code and the Law on Organization of Workers' Trade Unions.

The workers' representatives or trade union committee may call upon workers to strike or stop work only after a final ruling has been made on the dispute (un-appealable) or if the employer refuses to comply with a ruling given by the labour division of a court of appeal. Workers cannot be engaged in strikes or to stop work in furtherance of political demands or goals. The trade union committee is required to give the employer and the Ministry at least three weeks' notice prior to launch of a strike.

Striking workers should not stop other workers, employer and his representative(s) from reaching the workplace or from carrying on their usual activity whether through actions, threats, violence, assaults, occupations of the workplace and damage to the property.

Minimum service must be maintained in establishments operating public services whose stoppage during strikes may endanger the lives, security or health of citizens or cause an economic crisis. These establishments include hospitals; establishments related to the operation of telecommunications, radio and television; establishments concerned with electricity, water, gas and petroleum products; banks and banking businesses; ports and airports; provision of goods and food and bakeries; services related to prisons; and works related to cattle, sheep and poultry farming, farm irrigation, agricultural harvesting, crop transport and the transport of fish. A worker cannot refuse to perform obligatory service and refusal to do which is a punishable offence.

A strike may be declared only after exhaustion of all means of negotiation with the employer. The right to strike is exercised according to the following procedure:(a) raising the red signposts notifying the strike action for at least three consecutive days; (b) partially stop work in the company and its branches for at least three days and completely stop the work on expiry of above referred period (at least six days).

Employment relationship does not end between the worker and employer during the strike period. Sanctions cannot be imposed against workers for exercising the right to strike (legitimate strike).

Source: §40-42 of Law No. 35 of 2002 on the Organization of Workers' Trade Unions; §144-150 of Labour Code (Act No.5 of 1995, as amended up to Law No. 15 of 2008)





DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG





Check

DecentWorkCheck Yemen is a product of
WageIndicator.org 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".

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 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.

Yemen scored 41 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.