



BOLIVIA

Decent Work Check 2019

Iftikhar Ahmad

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 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 the Plurinational State of Bolivia, 2009
2. General Labour Act, 1939
3. Decree enacting the Regulation of the General Labour Act, 1943
4. Supreme Decree No. 107, 2009
5. Supreme Decree, 2016 (No.2750)
6. Supreme Decree 28699, 2006
7. Decreto Ley N° 16187 de 16 de febrero de 1979
8. Supreme Decree, 2012 (No. 1212)
9. General Law on Occupational Health, Safety and Welfare, 1979
10. Supreme Decree on Organizational Structure of the Executive, 2009 (No. 29894)
11. Ministerial Resolution on Labour inspection, 1987 (340/87)
12. Social Security Code, 1956
13. Law on Pensions, 2010
14. Comprehensive Law to Guarantee Women a Life Free of Violence, 2013 (No. 348)
15. Law against Racism and All Forms of Discrimination, 2010 (No. 45)
16. Penal Code, 1972
17. Child and Adolescent Code, 2014
18. Avelino Siñani-Elizardo Pérez Education Law, 2010
19. Benefits of Integral Health Services Law, 2013 (No. 475)
20. Decree Law No. 13214 of 1975
21. Supreme Decree that creates an incentive- bonus mother-child for a safe motherhood, 2009 (No. 0066)

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Bolivia has ratified the Conventions 95, 117 and 131.

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:

- General Labour Act, 1939
- Decree enacting the Regulation of the General Labour Act, 1943
- Supreme Decree No. 107, 2009

Minimum Wage

The main provisions on the setting of minimum wages are contained in the General Labour Act, the Decree enacting the regulation of the General Labour Act and the Supreme Decrees.

The Ministry of Labour is responsible for fixing and periodic review of minimum wage. In doing so, it must take into account a number of factors, which include the geographic conditions, the economic situation of the country and categories of workers. The change in the minimum wage is notified to the public by the passage of a Supreme Decree. In accordance with the Constitution, the general sector minimum wages and salary increases, among others, are regulated under a law.

The national minimum wage applies to all workers in both the public and the private sector. There is one general minimum wage rate, which is applicable to all salaried employees and wage-earning employees except agricultural workers.

The Labour Inspection is responsible for monitoring compliance of the minimum wage legislation, and can initiate the necessary proceedings before the Labour and Social Security Court against the employers for violating the provisions of the Supreme Decree. Where there has been non-compliance with the minimum wage legislation by the employer, the law may impose a fine ranging from one thousand to ten thousand Bolivianos, depending on the seriousness of the offence. In addition, the Labour Judge or the immediately superior political authority can, also depending on the facts of a particular case, order the payment of the salary the worker was entitled to earn. In case of repeated non-compliance, fines can be doubled or closure of the commercial establishment may be imposed.

The current minimum wage in Bolivia, applicable from May 2016, is 1805 Bolivianos, which is a raise of 9% over the previous wage.

Source: §1, 47, 52, 121 of General Labour Act, 1939; §46 and 165 of the Decree enacting the Regulation of the General Labour Act, 1943; §2 and 3 of the Supreme Decree No. 107, 2009

Regular Pay

The term “wages” has been defined in the General Labour Law of Bolivia as any agreed payment in exchange of the services rendered by a worker in any of its modes or types of work.

Wages may be paid on hourly, daily, weekly, fortnightly or monthly basis. Wage payment period is however 15 days for (blue-collar) workers and 30 days for employees and domestic workers. Law also allows in-kind payment of wages. Wages must be paid in legal tender, on a workday and in the place of work. Paying wages in places of recreation, sale of merchandise or liquor is prohibited except for those workers who are employed in such establishments.

When paying wages to employees, the employer may only deduct amounts corresponding to income tax, contributions for the social insurance, and other contributions determined under the law. Deducting amounts for the use of amenities at work such as rental for rooms, use of light, water, medical care, medicines, tools or the imposition of fines (unless authorized by the Ministry of Labour) is strictly prohibited. On the orders of a Labour Court, a woman may receive 50% of the remuneration earned by her husband.

Source: §53 of General Labour Act, 1939; §42 and 43 Decree enacting the Regulation of the General Labour Act, 1943

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

Bolivia has ratified the Convention 01 only.

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:

- General Labour Act, 1939
- Decree enacting the Regulation of the General Labour Act, 1943

Overtime Compensation

The working hours of employees are subject to rules stipulated in the General Labour Act and the Decree enacting the Regulation of the General Labour Act. Normal working hours are 8 hours a day and 48 hours a week (exclusive of breaks). The normal weekly working hours for women and minors (under 18) are reduced to 40 hours

The provisions concerning working hours do not apply to managerial or supervisory workers, or work of intermittent nature where workers can be engaged for 12 hours a day provided that they are given one-hour extra break. Moreover, the working hour limit can be extended for shift workers, as long as the average hours worked over a three-week-period do not exceed 8 hours per day.

Overtime work is permitted only once the labour inspection authority has authorized overtime on employer's request. Once authorization is received, workers may perform up to two hours overtime per day. For overtime hours, workers are paid 200% of the normal wage rate (100% premium). The worker can perform overtime work for up to 2 hours per day only if authorized to do so by the Labour Inspection. The employer will be required to seek permission from the Inspection in this regard and must compensate the work done in this time with a rate equivalent to 100% over the normal wages of the worker.

Workers must be granted rest breaks during working hours. Labour Act requires a rest break after every 5 hours of work. The maximum duration of rest breaks is 2 hours per day. Daily rest period is not specified for general workers however, Labour Regulations require a daily rest period of 11 hours for minors.

Source: §46-51 and 55 of General Labour Act, 1939; §36 & 53 of Decree enacting the Regulation of the General Labour Act, 1943

Night Work Compensation

The provisions regulating night work in Bolivia are contained within the General Labour Act. The said Act defines the term "Night work" as work carried out in the interval between 20:00 and 06:00. The working hours during night cannot exceed 07 hours.

The premium for night work is 25-50% depending on the nature of work. The work done during the night will be remunerated at 25%-50% more in addition to the normal wage rate depending on the nature of work.

Source: §46 and 55 of General Labour Act, 1939

Compensatory Holidays / Rest Days

The rules on compensatory rest days for working on a weekly rest day or public holiday come from General Labour Act and the Decree enabling the Regulation of the General Labour Act.

Generally, work during public holidays is not permitted unless necessitated by the nature of the work, i.e., it must be in the public interest to continue doing such work.

Those who work on weekly rest days and public holidays are entitled to receive either a compensatory rest day during the current week or a remuneration equivalent to twice the normal salary (200% of the normal wage rate).

Source: §42 & 55 of General Labour Act, 1939; §30 and 31 of Decree enacting the Regulation of the General Labour Act, 1943

Weekend / Public Holiday Work Compensation

If workers are made to work on weekly rest days or public holidays, they either are entitled to another day of rest during the week or double the wages (200% of the normal wage rate).

Source: §31 of Decree enacting the Regulation of the General Labour Act, 1943

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.

Bolivia has ratified the Conventions 14 and 106.

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:

- General Labour Act, 1939
- Decree enacting the Regulation of the General Labour Act, 1943
- Supreme Decree, 2016 (No.2750)

Paid Vacation / Annual Leave

Annual Holidays are regulated by the General Labour Act. Workers are entitled to annual leave after one year of work.

The duration of the annual leave varies with the seniority of the worker (length of service with the enterprise). Both workers and employees with one to five years of service are entitled to 15 days of annual leave; for five to ten years of service, the annual leave duration is 20 days; and from the 10th year onward, the annual leave duration is 30 days. The scheduling and splitting of the annual leave for employees working in shifts will be decided by the employer.

Workers are entitled to their full salary during annual leave. Labour Act does not allow carrying forward of annual leave to the next year. Payment in lieu of annual leave is not allowed unless in the case of contract termination (and payment is made only for unused annual leave).

Source: §44 of General Labour Act, 1939; §33 of Decree enacting the Regulation of the General Labour Act, 1943

Pay on Public Holidays

The legal provisions on public holidays are contained in the General Labour Act and Supreme Decree. There are 11 public holidays, mostly of religious nature. The public holidays are as follows: New Year's Day (1 January); Plurinational State Foundation Day (22 January); Carnival (27 & 28 February); Good Friday (Friday before Easter Sunday); Corpus Christi (Second Thursday after Whitsunday); Labour Day (1 May); Andean New Year (21 June); Bolivian Independence Day (6 August); All Souls Day (2 November); and Christmas (25 December).

Except for Carnival Days, Good Friday, Corpus Christi, and All Saints Day, if a public holiday falls on Sunday, it is moved to the following Monday.

Source: §2-3 of the Supreme Decree, 2016 (No.2750); §44 of General Labour Act, 1939

Weekly Rest Days

The provision in law on weekly rest days comes from the Decree enacting the Regulation of the General Labour Act. The day specified as a weekly rest day is Sunday, thus the weekly rest period is 24 hours.

Worker and employer may agree on another half-day rest/break in the week, which can be compensated by working one extra hour every day if the total working hours should not exceed 48 hours per week.

Source: §30 of Decree enacting the Regulation of the General Labour Act, 1943

04/13 EMPLOYMENT SECURITY

Regulations on employment security:

- General Labour Act, 1939
- Decree enacting the Regulation of the General Labour Act, 1943
- Supreme Decree 28699, 2006
- Decreto Ley N° 16187 de 16 de febrero de 1979

Written Employment Particulars

Employment contracts are regulated under the General Labour Act and the Decree enacting the Regulation of the General Labour Act, which allows the concluding of a contract either orally or in writing for all contractual terms (definite or indefinite). Fixed term contract must be concluded in writing. Verbal contracts are presumed to be contract for indefinite duration.

Employment contracts must include following information: names of the contractors; age, nationality, marital status and domicile (permanent residence) of the worker; nature of the service provided; the nature of the work (definite/indefinite/ by task or by piece); amount, form and period of payment of the agreed remuneration; expected contract duration (for employment of temporary nature); place and date of contract; names and ages of legal heirs.

An employment contract concluded in writing must be authorized by a Labour Inspector or a superior administrative authority in order to be legally effective.

Source: §6, 7, 12 of General Labour Act, 1939; §7 and 14 of Decree enacting the Regulation of the General Labour Act, 1943

Fixed Term Contracts

An employment contract can be entered into for an indefinite period or definite period of time, or for performing a particular task. Fixed term contracts are permitted when the nature of the service of the task is itself of limited duration and are prohibited for permanent tasks.

A fixed term contract is automatically renewed if the worker continues to work after the initial contract has been completed however only one renewal of the fixed term contract is allowed for under the law.

The maximum cumulative duration of the fixed term contract is 2 years, i.e. one for the initial contract and one for the renewal.

Source: §12 and 21 of General Labour Act, 1939; Ministerial Resolution, 1962 (No. 283/62); §2 of Decreto Ley N° 16187 de 16 de febrero de 1979

Probation Period

Probation period is regulated under the General Labour Act, which sets the maximum trial period as three months. Probation period can be extended or renewed however the maximum term of trial period is not specified under the law. There is no trial period for fixed term contracts.

Source: §13 of General Labour Act, 1939, §8 of Decree enacting the Regulation of the General Labour Act, 1943

Notice Requirement

Employment relationship may be terminated by either party where the contract is of an indefinite term. Statutory written notice period is provided under the General Labour Act, which stipulates different notice periods for blue collar and white-collar workers. The notice periods are as follows:

- a) 7 days' notice for one month of service (blue collar workers);
- b) 15 days' notice for six months of service (blue collar workers);
- c) 30 days' notice for 1 year of service (blue collar workers); and
- d) 90 days' notice for more than 3 months of service (white collar workers)

Where the employee initiates termination, the above notice period is applicable except in the case of white-collar workers where the required notice period is 30 days after three months of service. In addition, the employer can also terminate the contract without notice in circumstances related to the employees' conduct, which are: intentional damage to firm's machinery, products or merchandise; disclosure of firm's industrial secrets; non-compliance with industrial hygiene or safety rules; failure to comply, totally or partially, with firm's internal rules; and abuse of trust because theft by worker. Dismissal for reasons apart from these is unlawful and prohibited.

If employee fails to give 30-day notice, he/she is required to pay compensation equivalent to 90 days of wages. Employment termination for just cause is possible only in the case of reduction of wages or salaries. In such case, the worker must receive compensation in the form of compensation for unpaid wages. Employer may also terminate a contract without notice by paying in lieu of notice (90 days' wages).

Source: §12 and 16 of General Labour Act, 1939

Severance Pay

An employee is only entitled to severance pay if he/she has been wrongly dismissed. If the employee is terminated for reasons that are provided within the General Labour Act (related to employees' misconduct), no severance payment is made to the employee. If the employee is dismissed for unfair reasons, he/she has the choice to either opt for reinstatement plus back pay or a severance payment or pay in lieu of notice.

Severance pay is equivalent to one monthly salary for every year of service. Where the total duration of employment is less than one year, severance pay is paid in proportion to the months worked. The first three months (of probation period) are deducted in the case of indefinite term contracts. Workers must have completed five years of service for entitlement to severance pay.

Source: §13 and 16 of General Labour Act, 1939; §9 and 10 Supreme Decree 28699, 2006

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Bolivia has ratified the Convention 156.

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:

- Supreme Decree, 2012 (No. 1212)

Paternity Leave

Paternity leave is regulated under the Supreme Decree from 2012. It provides for three working days of paternity leave to fathers on submission of medical certificate, issued by the relevant health management agency.

Paternity leave is fully paid by the employer.

Source: Supreme Decree, 2012 (No. 1212)

Parental Leave

No provisions on parental leave were identified from within the law

Flexible Work Option for Parents / Work-Life Balance

No provisions on flexible work options for parents were identified from within the law.

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.

Bolivia has ratified the Convention 103 only.

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:

- Benefits of Integral Health Services Law, 2013 (No. 475)
- Social Security Code, 1956
- Decree Law No. 13214 of 1975
- Supreme Decree that creates an incentive- bonus mother-child for a safe motherhood, 2009 (No. 0066)
- General Labour Act, 1939
- Supreme Decree, 2009 (No. 0012)

Free Medical Care

The Social Security Code has stipulated that the necessary medical care required for a pregnant woman will be provided, starting from the day at which the pregnancy is verified, and up to six weeks after confinement. However, no information can be found from within the law that stipulates what kind of care is to be provided specifically.

The Medical care will be financed by funds from the General Treasury and the Municipal.

Source: Benefits of Integral Health Services Law, 2013 (No. 475); §1, 2, 3 and 23 of Social Security Code, 1956

No Harmful Work

The provisions on the protection of health and safety of pregnant workers come from the General Labour Act, the Act on employment security for pregnant women and the decree on hygiene, occupational safety and wellbeing.

Women or pregnant workers are generally to be employed during the day only. With respect to overtime work and working on weekly rest day, there is no provision within the law that prohibits it for pregnant workers.

A pregnant woman worker whose employment requires her to carry out work that may affect her health is entitled to special treatment that will allow her to carry out her activities in appropriate conditions, without her wage level or her position being affected. Pregnant women are prohibited from carrying heavy loads, working in underground tunnels, kilns, mines, and generally in all those works that present a hazard of intoxication, which give off deleterious gases or vapours or noxious fumes.

Source: §46 and 60 of General Labour Act, 1939; §2 of Employment Security for Pregnant Women Act 1988 (No. 975); §8 and 274 of the General Law on Occupational Health, Safety and Welfare, 1979

Maternity Leave

The rules on maternity leave are provided for in the General Labour Act. The maternity leave duration is 90 days of which 45 days is pre-natal leave (while the remaining duration is post-natal).

If the pregnant woman contracts any illness or has any complications while being pregnant, they can be allowed to take an indefinite leave from work by the employer until such illness is cured.

No provisions were identified in relation to extension that may be allowed for multiple births.

Source: §61 of General Labour Act, 1939

Income

Income during maternity leave is regulated under various decrees.

In order to qualify for receiving the benefit, women workers must have paid at least 4 monthly contributions in the 12 months immediately preceding the date of payment of prenatal cash benefit. The benefit, equivalent to 100% of the national minimum wage, is paid for a total of 90 days, (45 days before and 45 days after the confinement). The Social Insurance System will finance these benefits.

Source: §31 of the Decree Law No. 13214 of 1975; Supreme Decree that creates an incentive- bonus mother-child for a safe motherhood, 2009 (No. 0066); §3 of the Social Security Code, 1956

Protection from Dismissals

Parents are protected from dismissal during pregnancy and up to the first year of age of their child/children provided, they are able to prove the pregnancy by providing a medical certificate. Their salary cannot be reduced and they cannot be transferred to another workplace.

Source: §48 of the Constitution of the Plurinational State of Bolivia, 2009; §1 of Employment Security for Pregnant Women Act 1988 (No. 975); §2 of Supreme Decree, 2009 (No. 0012)

Right to Return to Same Position

Mother and father cannot be dismissed and neither the job they perform can be changed during pregnancy and in the first year of their child/children.

Source: §2 of Supreme Decree, 2009 (No. 0012)

Breastfeeding

During breastfeeding, women are entitled to daily rest periods of one hour. In addition, there is also a breastfeeding allowance payable by employers and it is equivalent to a national minimum wage in dairy products for each child during 12 months.

Source: §61 of General Labour Act, 1939; §25 of the Supreme Decree, 1987 (No. 21637)

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)

Bolivia 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:

- General Law on Occupational Health, Safety and Welfare, 1979
- General Labour Act, 1939
- Supreme Decree on Organizational Structure of the Executive, 2009 (No. 29894)
- Ministerial Resolution on Labour inspection, 1987 (340/87)

Employer Cares

In Bolivia, the General Law of Occupational Health, Safety and Welfare, 1979 is the leading OSH legislation. It aims to ensure the adequate conditions of health, hygiene, safety and welfare at work; achieve a working environment free of risks for the psychophysical health of workers; and protect people and the environment in general from risks that directly or indirectly could affect their health, safety and ecological balance. The General Labour Act and its Regulations also stipulate some OSH rules. There are also other regulations relating to particular issues concerning the joint OSH committees, the personal protective equipment or the compensations for occupational accidents or diseases

The Law imposes a range of specific obligations on the employers, which are as follows:

- To adopt an internal rule of procedures designed to protect the health and safety of employees;
- To hold medical exams periodically for workers in order to determine their health status by establishing a Preventive Labour Medical Service in the Workplace;
- To provide free medical and pharmaceutical care to workers, including transportation to the hospital;
- To ensure that there are appropriate sanitary installations, adequate supply of clean drinking water and hygienic eating facilities that serve quality food;
- Establish and maintain joint health and safety committees
- To create preventive occupational health services and a department of Occupational Health, Safety and Welfare along with appointing the necessary personnel to run it.

Employers must ensure preventive measures that must be taken for the protection of life, and physical and mental health of workers.

Source: §6, 38-40, 41, 45, 342-346, 352-370 of General Law on Occupational Health, Safety and Welfare, 1979; §67, 70, and 93 of General Labour Act, 1939

Free Protection

The General Law on Occupational Health, Safety and Welfare requires employers to provide workers with protective breathing equipment when there are air pollutants in the work environment and when ventilation or other controls are impossible. Such equipment must provide protection against specific pollutants and must be approved by competent authorities. Employers must provide and maintain clothing and/or equipment suitable for the protection against risks from hazardous substances, rain, humidity, cold, heat, radiation, noise, and others if needed.

Source: §6.9 & 6.14 of General Law on Occupational Health, Safety and Welfare, 1979

Training

Employers must prevent, communicate, inform and train employees about all known risks at the workplace and necessary preventive measures. Employers must promote the training of personnel in the prevention of occupational hazards. Employers are further required to place and maintain, in a visible place, notices or posters indicating hygiene and safety measures.

Source: §6.22-24 of General Law on Occupational Health, Safety and Welfare, 1979

Labour Inspection System

The Ministry of Labour, Employment and Social Security through the General OSH Directorate is responsible for the compliance and enforcement of OSH legislation.

The functions of the General OSH Directorate include, among others, to:

- 1) Comply with and enforce the provisions of OSH Legislation (which includes appointing Labour inspectors to monitor and implement compliance);
- 2) Make proposals to the National OSH Council on standards for the development of national policies;
- 3) Coordinate OSH programs and actions;
- 4) Promote OSH training programmes;
- 5) Control the compliance with regulations protecting against occupational hazards;
- 6) Promote OSH infrastructures in workplaces;
- 7) Develop an OSH statistics system;
- 8) Undertake inspection of workplaces;
- 9) Conduct the procedures for the application of OSH sanctions.

Inspectors appointed by the OSH directorate have the following powers in relation to ensuring compliance:

- Inspect any workplaces, machinery, equipment, materials, industrial processes, and carry out as much relevant investigation as needed in order to identify the risks faced in these establishments;
- Gather evidence, interrogate workers or require documents, records and others;
- Advise employers and workers about the OSH legislation in force and have powers to issue orders to take certain steps within a specified term;
- Impose financial penalties on enterprises or individuals for non-compliance with the law or for obstructing the law;
- Require the stoppage of machinery and the partial or total closure of the industry where working conditions present an imminent or serious danger to the life or health of workers.

Source: §25 & 26 of General Law on Occupational Health, Safety and Welfare, 1979; Supreme Decree on Organizational Structure of the Executive, 2009 (No. 29894); §2, 7, 11 and 16-18 of the Ministerial Resolution on Labour inspection, 1987 (340/87)

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

Bolivia has 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:

- Social Security Code, 1956
- General Labour Act, 1939
- Law on Pensions, 2010

Income

The rules on paid sick leave comes from the Social Security Code

If an employee is absent from work due to illness, 75% of the insured worker's last earnings are paid after a four-day waiting period for up to 26 weeks. The sickness benefit may be extended to 52 weeks if continuing medical care can help prevent permanent disability.

No provisions could be found within the law on the total number of sick leave that an employee can avail.

Source: §39 & 71 of Social Security Code, 1956

Medical Care

In case of sickness, recognized by the medical services, the insured worker and the beneficiaries are entitled to the benefits that these services consider indispensable for cure, or to the necessary medical and dental, general and specialized care, surgical care, and to the supply for medicines that require the patient's condition.

Medical benefits are granted for a maximum period of 26 weeks for the same illness over a period of 12 consecutive months. In cases where there is a clinically proven possibility of recovery of the patient, the benefits may be extended up to a maximum of 26 weeks in a single time.

Hospital care are granted with a maximum of 26 weeks for the same disease over a period of 12 consecutive months.

The said benefits are financed by the Social Security fund.

Source: §14 & 16-18 of Social Security Code, 1956

Job Security

The General Labour Act contains the provisions on job security during illness.

If an employee, who has worked continuously for more than one year at a workplace, is absent from work due to illness, he is entitled to retain his employment with full pay for 30 days (blue collar worker) or 3 months (white collar worker), depending on the nature of employment. For six months to one year of service, the employment is secure with

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full pay for 15 days (blue-collar worker) and 30 days (white-collar worker). In the case of less than six months of service, employment is secure for 15 and 30 days for blue collar and white-collar workers respectively. However, the leave is paid at 25-50% of pay.

Source: §73 of the General Labour Act, 1939

Disability / Work Injury Benefit

The legal provisions on the work injuries and relevant benefits come from the Social Security Code.

Work injuries may be classified based on their consequences as those resulting in: (i) permanent total incapacity (ii) permanent partial incapacity and (iii) temporary incapacity; and (iv) fatal injuries leading to the death of a worker.

There is no minimum qualifying period for work injury benefits. Accidents that occur while commuting to and from work are covered if the employer arranged the transport facility. However, insured persons must be younger than age 65 and assessed with a degree of disability of at least 10%. If the disability is the result of an accident at work, the insured must have been employed when the accident occurred. If the disability is the result of an illness, the disability must begin while the insured is employed or up to 12 months (18 months for miners) after employment ceases.

In the case of temporary disability, 75% of the insured worker's last earnings are paid after a four-day waiting period for up to 26 weeks; this may be extended for an additional 26 weeks if continuing medical care can prevent permanent disability.

The permanent disability pension is of two types: Social Insurance and mandatory account system. For permanent partial disability (an assessed degree of disability of 25-59%), the pension is equal to the degree of disability multiplied by the insured worker's average earnings in the last five years. For a **permanent disability**, 100% of the insured worker's average earnings in the last five years (over the whole contribution period for less than five years of contributions) is paid. In the case of mandatory account system, the insurance company pays a monthly contribution of 10% of the insured worker's average earnings in the last five years (over the whole contribution period for less than five years of contributions) to the insured person's individual account until retirement or death.

For an assessed degree of disability of 10-24%, a disability grant is paid in the form of a lump sum of 48 times the insured worker's average earnings in the last five years (over the whole contribution period for less than five years of contributions) is also paid. The disability pension ceases at age 65 and is replaced by the old-age pension.

In the event of worker's death, there is provision for survivor benefits: up to 80% of the base amount is paid 13 times in a year to the surviving spouse. This percentage is 60%, if there is one eligible child and 50% if there are two or more eligible children. Full pension is payable if the deceased worker had at least 40 years of coverage. The monthly base survivor pension is 100% of the deceased's average earnings in the last five years.

There is also provision for orphan's pension, which is 20% of the base amount if there is only one orphan and 50%, which is split equally if there are two or more orphans. 100% pension will be split equally among full orphans.

If there is no surviving spouse, partner, or child, 60% of the monthly base survivor pension is split equally among other eligible survivors.

All benefits combined for other eligible survivors must not exceed 60% of the base survivor pension.

Source: §66-68 of the Social Security Code 1956; §45-48 of the Law on Pensions, 2010

09/13 SOCIAL SECURITY

Regulations on social security:

- Law on Pensions, 2010

Pension Rights

The old age pension is provided by two different schemes: mandatory individual account and universal pension.

The qualifying conditions for entitlement to pension under the mandatory individual account are that at any age (minimum age is 55 years for men and 50 years for women) the individual account balance must be sufficient to finance a monthly pension of 60% of the insured person's average earnings in the last two years (or over the whole contribution period for less than two years of contributions), funeral expenses, and survivor benefits for the insured person's dependents. The pensionable age is 58 years (56 years for miners) with at least 10 years of contributions. The retirement age for women is reduced by one year for each live birth, up to three. For the universal pension, the only qualifying condition is that the person must be aged 60.

For receiving the Benefits under the mandatory individual account, the insured person must purchase a fixed or variable life annuity, depending on the account balance at retirement. The first monthly amount paid under a variable life annuity must not be less than 60% of the insured's average covered earnings in the last two years (or over the whole contribution period for less than two years of contributions).

The benefits under the universal pension consist of a lump sum payment fixed by law that is paid for life. The benefit is paid monthly, bimonthly, quarterly, or annually and is reduced by 25% if the person receives another pension.

Source: §8, 20, 21 Law on Pensions, 2010

Dependents' / Survivors' Benefit

The pension for a survivor is subject to the following qualifying conditions:

Under the mandatory account, the deceased must have received or was entitled to receive an old-age or disability pension; had at least five years of contributions to the social insurance or individual account schemes; and was either still contributing or had ceased contributing no longer than 12 months before the death. If the death was the result of an illness, the deceased must also have had at least 18 months of contributions in the last 36 months before the date of death.

Eligible survivors include a widow(er) or cohabiting partner and children under 18 (age limit is raised to 25 years for students; no age limit for disabled). If there is no eligible widow(er), partner, or child, other eligible survivors include the deceased person's parents, siblings under 18, or other survivors named by the insured.

90% of the monthly base survivor pension is paid to a widow(er) or cohabiting partner with no eligible children. Spousal benefit is reduced to 70% if there is one eligible child and further to 50% for two or more eligible children. The monthly base survivor pension is the old-age (mandatory individual account or solidarity) or disability pension the deceased received or was entitled to receive at the time of death, whichever is greater, depending on the deceased's age at the time of death.

The widow(er)'s or partner's pension ceases on remarriage or cohabitation.

The orphan's pension is 20% of the monthly base survivor pension for one orphan, 50% split equally if there are two or more orphans and 100% split equally among full orphans. If there is no eligible widow(er), partner, or children, 60% of the monthly base survivor pension is divided equally among other eligible survivors.

Source: §37, 38, 39, and 61 of the Law on Pensions, 2010

Unemployment Benefits

No provisions on unemployment benefits were identified from within the law. Severance pay is provided by the employer, which has been explained in the section on Employment Security.

Invalidity Benefits

The invalidity benefit is paid to those who under 65 and are assessed with loss in the earning capacity of at least 60%; had at least five years of contributions to the social insurance or individual account schemes; are currently contributing or have ceased contributing no longer than 12 months before the disability began. If the disability is due to an illness, the insured must also have at least 18 months of contributions in the last 36 months before the disability began. A pension for partial disability is paid for those younger than 65 with an assessed loss in earning capacity of in between 50% to 59%. In addition, a severe disability supplement is also paid to those with an assessed degree of loss in earning capacity of at least 80%. Payment is made under the Universal Scheme to those who are assessed with a severe or very severe disability, i.e. those who are unable to perform most daily tasks and are in need of constant attendance of others to perform daily tasks.

Under mandatory individual account for an assessed degree of disability of at least 60%, 70% of the insured person's average earnings in the last five years (or over the whole contribution period for less than five years of contributions) are paid. In cases of partial disability, the pension is equal to the assessed degree of disability multiplied by the insured worker's average earnings in the last five years (or over the whole contribution period for less than five years of contributions). The severe disability supplement is a monthly benefit equivalent to the legal monthly minimum wage.

Under the Universal system, a lump sum per year determined by law is paid.

Source: §31-33 of the Law on Pensions, 2010

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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.

Bolivia has ratified both the 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:

- Constitution of the Plurinational State of Bolivia, 2009
- General Labour Act, 1939
- Comprehensive Law to Guarantee Women a Life Free of Violence, 2013 (No. 348)
- Law against Racism and All Forms of Discrimination, 2010 (No. 45)
- Penal Code, 1972

Equal Pay

The Constitution of Bolivia has mandated that the state must promote the incorporation of women into the workforce and guarantee them the same remuneration as men for work of equal value in both the public and the private sectors.

The General Labour Act requires that wages must be paid proportional to the work and no difference should be allowed on the ground of sex or nationality.

Source: §48 the Constitution of the Plurinational State of Bolivia, 2009; §52 of General Labour Act, 1939

Sexual Harassment

Sexual harassment is prohibited under the Law Guaranteeing the Women a Life Free of Violence, which prohibits harassment based on gender and sexual harassment. Although no definition of the term sexual harassment is provided, the term Labour Violence has been ascribed a meaning similar to it, and it is regarded as “all actions that occur in any area of work by any superior, either in equal or inferior hierarchy that discriminates, humiliates, threatens or intimidates women; which hinders the submission, access to employment or promotion, and which violates the exercise of their rights.

The Act places duties on the ministry of Labour to preclude and seek to prevent the occurrence of harassment. The Act requires employers to protect against all forms of harassment or sexual harassment, and adoption of internal and administrative procedures for reporting, investigation, attention, prosecution and punishment.

In addition, Sexual Harassment has been criminalized and attracts a punishment by imprisonment four to eight years under the Penal Code.

Source: §11 and 21 of the Comprehensive Law to Guarantee Women a Life Free of Violence, 2013 (No. 348); §312c of the Penal Code, 1972

Non-Discrimination

The Constitution prohibits and punishes all forms of discrimination based on sex, color, age, sexual orientation, gender identity, origin, culture, nationality, citizenship, language, religious belief, ideology, political affiliation or philosophy, civil status, economic or social condition, type of occupation, level of education, disability, pregnancy, and any other discrimination that attempts to or results in the annulment of or harm to the equal recognition, enjoyment or exercise of the rights of all people. The Constitution further guarantees that women cannot be discriminated against or fired because of their civil status, because of pregnancy, because of their age or physical features, or because of the number of children they have. It is guaranteed that pregnant women and parents cannot be dismissed from employment until the child completes one year of age.

Under the Anti-Discrimination Law, Discrimination is defined as any form of distinction, exclusion, restriction or preference based on sex, color, age, sexual orientation and gender identity, origin, culture, nationality, citizenship, language, religious creed, ideology, political or philosophical affiliation, marital status, economic, social or health condition, occupation, trade, degree of education, different capacities and / or physical disability, intellectual or sensory, state of pregnancy, provenance, physical appearance, or dress that have the purpose or result of nullifying or undermining the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms recognized by the constitution and international law.

All private institutions are required to adopt or amend their Internal Regulations to include any act, which can result in discrimination such as verbal, sexual, physical, psychological abuse or denial of access to opportunities. In addition, private institutions that are aware of complaints about racism and all forms of discrimination against its employees must send a copy of the same to the Directorate-General for Combating Racism and All Forms of Discrimination.

Discrimination and the incitement to discrimination have been criminalized by the Act and attract a penalty of one to five years of imprisonment.

A law on Labour Insertion and Financial Aid for Persons with Disabilities was enacted in 2017 which sets employment quota for persons with disabilities in public and private sectors. The proposed quota in the public sector is 4% of the total personnel while in the private sector, the quota is 2%. The law further provides for a monthly bonus for people with severe and very serious disabilities.

Source: §14 & 48 of the Constitution of the Plurinational State of Bolivia, 2009; §5 & 14 of the Law against Racism and All Forms of Discrimination, 2010 (No. 45); §281B & c of the Penal Code, 1972; Law No. 977 of 2017 regarding Labour Insertion and Financial Aid for Persons with Disabilities

Equal Choice of Profession

The Constitution has guaranteed that every person has the right to work without discrimination, and with a satisfactory remuneration, that assures a dignified existence of the worker and his or her family. In addition, the constitution also creates an obligation on the state to promote the employment of women into the work force.

Source: §46 and 48 of the Constitution of the Plurinational State of Bolivia, 2009

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Bolivia has ratified both the 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:

- Constitution of the Plurinational State of Bolivia, 2009
- General Labour Act, 1939
- Child and Adolescent Code, 2014
- Avelino Siñani-Elizardo Pérez Education Law, 2010

Minimum Age for Employment

Under the General Labour Act and the Child and Adolescent code, children under 14 cannot perform work. However exceptionally, children under 14 may be employed for apprenticeship or where the Ombudsmen for Children and Adolescents authorizes work for minors aged ten to fourteen years. Authorization is granted only if the work is not dangerous or unhealthy or does not undermine their right to education. The law further stipulates that Children under 18 years of age cannot be hired for work beyond their normal physical development.

Constitution provides for free public education and the compulsory education age is 17 years.

Source: §17 and 81 of the Constitution of the Plurinational State of Bolivia, 2009; §8 & 58 of the General Labour Act, 1939; §129 of the Child and Adolescent Code, 2014; §1, 8, 9 and 11-14 of the Avelino Siñani-Elizardo Pérez Education Law, 2010

Minimum Age for Hazardous Work

The General Labour Act and the Child and Adolescent Code prohibit hazardous work for children under the age of 18.

Children under 18 years of age cannot be hired for work beyond their normal physical development; in dangerous, unhealthy or heavy work; and work that damages their morality. In this regard, a list of occupations that may be regarded as dangerous have been specified in the Child & Adolescent code which include taking part in agricultural work, work in mines, fishing, work in brick kilns, sale of alcoholic beverages, waste collection, cleaning of hospitals ,protection and security services, plasterwork, handling heavy machinery.

It is also worth mentioning that children are prohibited from doing night work. The total working hours must not exceed 8 hours a day and 40 hours a week. Thus, the overtime work is prohibited for young workers. For workers under 14 (authorized by Ombudsman), the working hours must not exceed 6 hours a day and 30 hours a week.

Source: §58, 59, 60 General Labour Act, 1939, §126-140 of the Child and Adolescent Code, 2014

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.

Bolivia has ratified both the 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:

- Constitution of the Plurinational State of Bolivia, 2009
- Penal Code, 1972
- General Labour Act, 1939
- Decree enacting the Regulation of the General Labour Act, 1943

Prohibition on Forced and Compulsory Labour

The legal provisions preventing slavery and forced Labour are found in the Constitution and the Penal Code.

The Constitution has stipulated that no one can be held in slavery or forced Labour. The Penal Code also prohibits forcing others to forced Labour and any person who forces another person to engage in forced labour is subject to imprisonment for a term not exceeding 8 years. If the victim was a minor, the sentence is increased to 16 years.

The Comprehensive Law against Trafficking in Persons considers forced labour as a form of exploitation. Forced Labour is defined as any work or service, under threat or coercion, without or without the victim's consent. Giving wages or compensation for such work does not mean that work is not forced. Trafficking of persons for any form of exploitation including labour exploitation, forced labour or any form of servitude, forced begging, and commercial sexual exploitation is prohibited.

Source: §15 and 46 the Constitution of the Plurinational State of Bolivia, 2009; §281-bis & 291 of the Penal Code, 1972; §6 & 34 of the Comprehensive Law against Trafficking in Persons, 2013 (No. 263)

Freedom to Change Jobs and Right to Quit

Bolivian law gives a worker freedom to change jobs and the right to quit. In accordance with the provisions of the Constitution, everyone has the right to work and freedom of work. A worker who wants to terminate his employment contract must also give his employer a minimum period of notice depending on the length of employment and his/her age, which ranges between 7 days and 3 months

Source: §46 of the Constitution of the Plurinational State of Bolivia 2009; §12 and 16 of General Labour Act, 1939

Inhumane Working Conditions

Normal working hours are 8 hours a day and 48 hours a week. The general overtime work must not exceed 2 hours per day. The maximum working hours in this way are 60 hours per week (48 hours + 12 hours overtime).

The abovementioned rules however do not apply to managerial or supervisory workers, who can be employed for 12 hours a day.

For more information on this, please refer to the section on working time.

Source: §46, 48, 50 and 55 of General Labour Act, 1939; §36 of Decree enacting the Regulation of the General Labour Act, 1943

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)

Bolivia has ratified both 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:

- Constitution of the Plurinational State of Bolivia, 2009
- General Labour Act, 1939

Freedom to Join and Form a Union

The Constitution and the General Labour Act guarantee freedom of association and gives everyone the "right to form, join or withdraw from associations, including trade unions and political parties." The General Labour Act also recognizes the right to form trade unions and prohibits termination of employment on the basis of trade union membership.

Source: §21 & 51 the Constitution of the Plurinational State of Bolivia, 2009; §99 the General Labour Act, 1939

Freedom of Collective Bargaining

The right of collective bargaining is set out by the Constitution and the General Labour Act.

The employer who employs workers belonging to trade unions, will be obliged to conclude collective labour agreements with them when they so request. A Collective Labour contract is defined as 'the agreement between one or more employers and a union, federation or confederation of Labour unions, in order to determine general conditions of work or to regulate it.

Issues that are to be discussed in collective bargaining may include general sector minimum wages and salary increases; reincorporation; paid vacations and holidays; calculation of seniority, the work day, extra hours, night time overtime, Sunday work; Christmas bonuses, vouchers, bonuses and other systems of participation in the profits of the enterprise; indemnification and severance pay; maternity leave; professional training and formation; and other social rights.

The collective work contract must be concluded in writing and registered with the Labour Inspector

Source: §49 The Constitution of the Plurinational State of Bolivia 2009 §27 the General Labour Act, 1939, §17, 18 of Decree enacting the Regulation of the General Labour Act, 1943

Right to Strike

The Constitution has guaranteed the right to strike for workers in order to defend their rights, in accordance with the law.

Upon a work dispute, the law requires that the workers and the employee try to resolve their issues by bringing them to the conciliation board and the arbitration tribunal and a strike may only be called after such attempts at conciliation and arbitration have failed.

Before commencing the strike, it is important that there is a statement of the Board of Conciliation or Arbitration Tribunal on the dispute and that the resolution to strike is taken by at least three-quarters of all workers in active service. The original minutes of the meeting at which the strike is declared must be forwarded to Policy Department or provincial authority five days in advance, accompanied by a list of responsible workers and specifying their home addresses. A copy of such report must also be forwarded simultaneously to the Labour Inspector.

The strike must amount to a “peaceful suspension of work” and any act or hostility against persons or property is strictly prohibited.

Source: §53 the Constitution of the Plurinational State of Bolivia, 2009; §114-119 the General Labour Act, 1939



DECENT WORK QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

DecentWorkCheck Bolivia 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.

Bolivia scored 43 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.