



DECENT WORK CHECK

HONDURAS 2023

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 practised, promoted and respected.

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

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

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

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

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

MAJOR LEGISLATION ON EMPLOYMENT AND LABOUR

1. Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)
2. Constitution of Honduras, 1982, last revised in 2013
3. Acuerdo núm. STSS-053-04 por el que se modifica el Reglamento General de Medidas Preventivas de Accidentes de Trabajo y Enfermedades Profesionales.
4. Labour Inspection Act (Decree 178-2016)
5. Social Security Act (Agreement no. 003-JD-2005)
6. Penal Code, 1983 (last amended in 2014)
7. Law on Equal Opportunities for Women, 2000
8. Decreto No. 73-96 por el que se dicta el Código de la Niñez y la Adolescencia, 5 de septiembre de 1996
9. Anti-Trafficking Act, 2012

01/13 WORK & WAGES

ILO Conventions

Minimum wage: Convention 131 (1970)

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

Honduras has ratified the Convention 95 only.

Summary of Provisions under ILO Conventions

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

Regulations on work and wages:

- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)

Minimum Wage

Minimum wage is a wage every worker is entitled to receive to meet normal material, spiritual and cultural needs and his/her family's needs. The Constitution of Honduras states that every worker has the right to earn a minimum wage, fixed periodically through a Decree. Minimum wage must be adequate to meet the family, moral and cultural needs of a worker.

Minimum wage is determined by the Ministry of Labour on recommendation of the National Minimum Wage Commission. Minimum wage may be set differently for different occupations and regions taking into account the cost of living, relative fitness of employees, inflation rate of the country, the increment in the costs of the goods and services in the economy and remuneration systems in companies. Minimum wage is also fixed by collective agreement, provided that the wage cannot be lower than the rates set by the legal authority.

The Honduran Constitution mandates the State to monitor, inspect and penalize the firms that do not comply with labour laws. The Constitutional obligation is complied with by the Ministry of Labour and Social Welfare through its different directorates and inspectorates namely the General Inspectorate of Labour, Inspectorate of Occupational Safety and Health and Directorate General of Wages. These institutions ensure compliance with all labour code provisions including the

minimum wage.

Failure to comply with minimum wage regulation constitutes a labour offence and leads to a fine ranging between 100-1,000 Lempiras. In the case of repeat offence, 150% of the earlier fine is imposed as penalty. A worker may recover wages through a court if an employer has been paying below the minimum wage rate.

Source: §128 and 138 of the Constitution of Honduras 1982; §381-387 of the Labour Code 1959; §39-41 of the Minimum Wage Act 1971

Regular Pay

Wage is the remuneration that an employer is required to pay to a worker under a labour contract or by virtue of a labour relation. In accordance with the Labour Code, wages must be paid regularly and in legal tender to a worker or an authorized person at workplace during working hours or immediately after work in presence of two witnesses. Payment of wages in recreation places (casinos) or where alcohol is sold is prohibited unless the wages are to be paid to the workers of these establishments. Wage payment may be calculated per unit of time (hours, day, week, fortnight or a month) or piece rate (task or piece of work) or as a share of profits or sales. Employers and employees may set a deadline/wage payment interval however this period may not be longer than a week (7 days) for manual workers and one (1) month for intellectual workers and domestic worker.

In-kind payment received by a rural worker or their family in the form of food, housing, and other articles of personal consumption are allowed, provided that the value assigned to such benefits must not exceed

30% of the cash wage and that such articles are provided by the employer at or below cost. Payment in a form of promissory notes, vouchers, tokens, or coupons which is intended to replace the salary is prohibited.

Source: §364-370 of the Labour Code 1959

02/13 COMPENSATION

ILO Conventions

Compensation overtime: Convention 01 (1919)

Night work: Convention 171 (1990)

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

Summary of Provisions under ILO Conventions

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

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

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

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

Regulations on compensation:

- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)

Overtime Compensation

In accordance with the Labour Code, the usual working hours are 8 hours a day and 44 hours per week, equivalent to 48 hours/week of salary. Work time is a period during which the worker is at the employer's disposal including rest or meal breaks if the worker cannot leave the workplace. Total hours of work (normal + overtime) should not exceed 12 hours a day. Employer may not require a worker to perform overtime work more than 4 times a week. Overtime work means any work performed in excess of the normal hours of work and in any event in excess of the statutory maximum. Any work that is done outside the limits specified for normal hours of work or exceeds any shorter hours of work agreed between the parties is deemed to be overtime. The total maximum overtime hours in a week are 16 hours. Overtime is prohibited for dangerous and unhealthy work.

If a worker works beyond the stipulated working hours, i.e., 8 hours a day and 44 hours a week, he/she is entitled to an overtime pay at the following rates:

- 125% of normal hourly rate for the work that is performed during day time;
- 175% of the normal hourly rate for night work for overtime work performed during night hours.

Normal working hours limit is not applicable to the specified groups including managerial and supervisory

workers; domestic workers; intermittent work, e.g., hotel staff; private chauffeurs and drivers; work that by its nature cannot not be subject to the hours limit, e.g., agriculture, stockbreeding; workers paid on commission and similar employees who don't work on the workplace. These workers cannot be required to remain at work for more than 12 hours a day.

Source: §320-333 of the Labour Code 1959

Night Work Compensation

Night work is the work performed during 07:00 p.m. and 05:00 a.m. of the next day. Law requires an employer to pay night workers at a higher rate of 150% of normal wage rate. The normal working hours for night workers may not exceed 6 hours a day and 36 hours a week. For split shifts (when work is carried out during day and night), maximum hours are 7 hours/day and 42 hours/week.

Source: §320-333 of the Labour Code 1959

Compensatory Holidays / Rest Days

In extraordinary circumstances, workers may perform work on weekly rest days and public holidays. Law in Honduras provides for compensatory day off in lieu of the working on a rest day.

There is no provision in the law which requires an employer to provide compensatory rest day to a worker who performs work on a Public Holiday.

Source: §338-340 of the Labour Code 1959

Weekend / Public Holiday Work Compensation

Workers may be required to work on weekly rest days and public holidays. In such circumstances, when employees have to work on weekly rest day and official holidays, it is considered as overtime work and wages are paid at a premium rate of 200% of normal hourly wage rate.

Source: §338-340 of the Labour Code 1959

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.

Honduras has ratified the Convention 14 and 106 only.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on annual leave and holidays:

- Labour Code, Decree No. 189 (amended in 2003)

Paid Vacation / Annual Leave

An employee is entitled to paid annual leave, after completion of 12 months of continuous service with the same employer. In order to avail annual leave, a worker must have worked at least 200 days during a year. Length of annual leave depends on the length of service of an employee with an employer. This is at least:

- 10 working days for one year of continuous service;
- 12 working days for two years of continuous service;
- 15 working days for three years of continuous service; and
- 20 working days for four or more years of service.

The amount of payment for annual leave has to be paid to the worker in advance of the enjoyment of such leave (at least 3 days before). Employer is required to indicate to the worker the proposed timing of annual leave within three months of the qualification of annual leave. While making the annual leave schedule, an employer should give priority to the smooth running of the enterprise and effectiveness of the rest periods. The Labour Code does not allow splitting or accumulation of annual leave in general cases. However, if the work is of special nature where long absence cannot be permitted, annual leave may be accumulated over two years. It is prohibited to perform work during annual leave. A worker may not receive compensation in lieu of annual leave except in the case of

contract termination before enjoyment of leave. A worker is eligible for compensation for proportional vacation if his employment is terminated before completion of one year of service.

Source: §345-359 of the Labour Code 1959

Pay on Public Holidays

Workers are entitled to paid holidays during Festival (public and religious) holidays. These are usually 12 in number. These days are New Year's Day (January 01), Day of the Americas (April 14), Holy Thursday (April 17), Good Friday (April 18), Easter Saturday (April 19), Labour Day (May 01), Central American Independence Day (September 15), Francisco Morazan's Birthday (October 06), Discovery of America (October 12), Honduran Armed Forces Day (October 27), and Christmas Day (December 25). If the national holidays fall on weekdays, they are moved to the Monday except in the case of New Year's Day (January 01), Holy Thursday (April 17), Good Friday (April 18), Easter Saturday (April 19), Labour Day (May 01), Central American Independence Day (September 15), and Christmas Day (December 25).

If the public holidays fall on Saturday or Sunday, they are moved to Monday except as provided in a collective agreement.

Source: §339 of the Labour Code 1959 and Decree No. 50-2003 (Concerning holidays)

Weekly Rest Days

Workers are entitled to 24 consecutive hours of rest for ever six days work. Labour Law requires that weekly rest day, in principle, should be Sunday for all employees.

Weekly rest on a day other than Sunday is allowed only when there is an evident and urgent need to do work which cannot be interrupted; when the technical or practical nature of the work is such that it has to be continued, and when the interruption of the work on Sundays could be prejudicial to the public interest or public health.

In accordance with the Labour Code, normal working hours on a working day may be continuous or divided in two or more periods with such rest breaks as are appropriate to the nature of work and requirements of workers. Once it has been agreed that working hours will be continuous, workers are entitled to a rest break of 30 minutes which is counted as effective working time. Managers, domestic workers, hairdressers, hotel employees, drivers, agricultural and livestock workers and commission employees (working outside the workplace) are entitled to one and a half hours of daily rest break. For young workers and women workers, the rest breaks must be two hours.

As for daily rest period, all workers are entitled to at least 10 hours of uninterrupted period of rest on completion of daily working time.

Source: §130, 326, 327 and 338 of the Labour Code 1959

04/13 EMPLOYMENT SECURITY

ILO Conventions

Convention 158 (1982) on employment termination

Honduras has not 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, Decree No. 189, enacted in 1959 (last amended in 2015)

Written Employment Particulars

Employment contract is a contract by which a natural person obliges to carry out a task or to render personal services to other persons under its continuous subordination and dependency, and with payment of remuneration. Employment contract may be for an indefinite duration, for a fixed term or for certain work. Employment contract must be in writing (except for some verbal contracts as provided under article 39 of Labour Code) and should include complete information of both the parties and other conditions of employment. It is the responsibility of an employer to provide written contract of employment to all workers. A written contract should contain the following information: Name, surname, age, sex, marital status, profession or occupation, address, origin and nationality of the parties; job description; contract type and commencement date of contract; workplace; worker's residence; working hours and wage related matters; and other relevant information. An employment contract may be concluded verbally in the case of domestic service; accidental or temporary work for not more than 60 days; a specific work whose value does not exceed two hundred lempiras and farm work. Verbal contract must have following points: nature of work and the place where work has to be performed; the amount and form of remuneration, either per unit of time, work performed by task, piecework or otherwise, and periods governing the payment; and the duration of the contract.

Absence of a written contract is attributable to employer. Lack of a written labour contract puts employer in a position of disadvantage against any claim. In accordance with the Labour Code, an employer not providing labour contract or omitting one of its requirements will make it presume, in case of controversy, that all labour conditions alleged by employee are true and valid.

Source: §19-31, 36-39 & 46 of the Labour Code 1959

Fixed Term Contracts

Honduran Labour Law prohibits hiring fixed term contract workers for tasks of permanent nature. Fixed term contracts and contracts concluded for a specific work are an exception. They can only be concluded where it is required by the incidental or temporary nature of the service to be performed or the work to be executed. The general duration of fixed term contracts is 12 months. This duration is 60 months if the work requires special technical preparation; however, a longer term can only be found to be in violation of the law on the express request of the worker. A fixed term contract is subject to renewal and maximum duration of a fixed term contract including renewal is 24 months.

Source: §47-48 of the Labour Code 1959

Probation Period

Probationary contract is the initial employment contract where the employer is able to appreciate the employee's capacities and the employee determines the suitability of the position. Term of probationary period must be stipulated in

writing and included in the labour contract.

In accordance with the Labour Code, probation/trial period cannot exceed, even when renewed, 2 months (60 days). During this period, either party can terminate labour relation without any responsibility to any of the parties; the employer must pay a salary only for the days worked, as well as corresponding accrued rights.

Source: §49-52 of the Labour Code 1959

Notice Requirement

The employment contract can be terminated by the employer with or without cause. Labour Code sets forth the grounds on the basis of which an employee can be terminated. Employment contract can be terminated by mutual agreement of the parties involved or by worker's resignation. Other causes of termination include death of the employee, expiration of the employment term agreed to in the contract, and the conclusion of the task or work for which the employee was hired.

Labour law requires an employer to provide written dismissal notice to an employee before terminating his/her employment contract establishing the causes alleged by the employer for the termination. The length of dismissal notice depends on an employee's length of service. Termination entitles the employees to receive following lengths of notice period:

- (i) 24 hours (1 day), if a worker has served the employer for a period of less than 3 month;
- (ii) 1 week, if a worker has served between 3 to 6 months;
- (iii) 2 weeks, if a worker has served between 6 to 12 months;

- (iv) 1 month, if a worker has served between 1 to 2 years;
- (v) 2 months, if a worker has served for more than 2 years.

Compensation in lieu of notice period is provided in case the employer fails to provide the notice period. An employer may pay (full wages) in lieu of notice period however an employee, if required to give notice to his/her employer before contract termination, may pay half wages in lieu of notice.

Source: §110-116 of the Labour Code 1959

Severance Pay

In accordance with the Labour Code, severance pay is provided when an employment contract of indefinite duration is terminated by an employee due to:

- Certain reasons specified in the Labour Code (grounds of unfair dismissal);
- For any reason beyond a worker's control; and
- Voluntary retirement or death of an employee.

Severance pay must be paid at the moment of termination with cause to prevent claims before the Ministry of Labour. It is equal to:

- 10 days wages for workers with at least 3 months but less than 6 months of service;
- 20 days wages for workers with at least 6 months but less than 1 year of service;
- 30 days (1 month) wages for workers with more than one year of service for each year of work. Severance pay should not exceed 08 months.

Severance pay is not provided if an

employment contract terminates due to death of the employee, expiration of the employment term agreed to in the contract, and the conclusion of the task or work for which the employee was hired. The employer must pay only the outstanding accrued benefits. The employer is obliged to pay special compensation to his/her spouse and children, if termination occurs due to the employee's death from a labour accident.

Source: §120 of the Labour Code 1959

05/13 FAMILY RESPONSIBILITIES

ILO Conventions

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

Honduras has not 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:

- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)

Paternity Leave

There is no provision in the law regarding paid or unpaid paternity leave on the birth of a child.

Parental Leave

There is no provision in the law on paid or unpaid parental leave.

Flexible Work Option for Parents / Work-Life Balance

No provisions could be located in the law supporting work-life balance for parents or workers with family responsibilities.

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.

Honduras has not ratified the Conventions 103 and 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, Decree No. 189, enacted in 1959 (last amended in 2015)

Free Medical Care

Complete medical care is provided to pregnant women during pre-natal, confinement and post-natal period up to 45 days after confinement. This period can be extended to 26 weeks, if required.

Source: ISSA Country Profile

No Harmful Work

Pregnant worker may not be employed in a work that requires considerable exertion. Similarly, it is also illegal to employ a pregnant worker in night work for more than 5 hours.

Source: §147 of the Labour Code 1959

Maternity Leave

Labour Code provides 10 weeks/70 days of paid maternity leave, provided that a worker presents a medical certificate to the employer indicating the pregnancy, expected date of delivery and the date of commencement of maternity leave. It includes 4 weeks before and 6 weeks after confinement. However, female employees are entitled to a maximum of 84 days (42 days before, 42 days after delivery) of maternity leave under Art.68 of General Regulation of the Social Security Act. The compulsory leave is 10 weeks.

A woman worker is entitled to take up to three months paid leave for illness resulting

from pregnancy or birth. The worker has to present a medical certificate. In case, a pregnant worker continues to be incapacitated to perform work after three months from the delivery and arising from an illness due to the pregnancy or confinement, she is entitled to enjoy unpaid leave till her recovery.

A worker who adopts a minor under five years is entitled to same post-natal leave as a woman who gave birth to a child.

Source: §135-138 of the Labour Code 1959; §54 of the Law on Equal Opportunities for Women 2000

Income

Labour Code provides for fully paid maternity leave. Social Security covers two-third of the benefit and employer covers the remaining one-third. If the Social Security Institute does not pay the maternity allowance (due to non-registration), employer is obliged to pay full wages during maternity leave.

Source: §67 of the General Regulation of the Social Security Act; §136 of the Labour Code 1959

Protection from Dismissals

A women worker cannot be dismissed on the ground of pregnancy and nursing/breast feeding of a child. If an employer wants to dismiss a worker during her pregnancy or within 3 months after childbirth, approval is needed from a labour inspector or a Mayor.

If an employment of a worker terminates without prior authorization, she is entitled to a sum equal to 60 days wages in addition

to any compensation due under the employment contract.

Source: §144-145 of the Labour Code 1959

Right to Return to Same Position

Labour code provides a female worker the right to return to the same position after availing her maternity leave. Employment of a worker is secure during the term of leave and she retains all rights pertaining to the employment contract during the term of her leave.

Source: §138 of the Labour Code 1959

Breastfeeding

Female workers are entitled to two paid nursing breaks, each of 30-minute duration, for new mothers to breastfeed their child(ren) daily until a child is six (06) months old. Nursing breaks are counted as time worked and are fully paid.

Honduras has enacted a law to protect and promote breastfeeding. In accordance with article 6 of this Law, mothers have the right to breastfeed when working away from home as well as the subsequent monitoring of the child or the child through childcare centres or other modalities. It also provides that to facilitate mothers pumping milk, state should establish a human milk collection centre in the place where she works, and adapt the time needed to fulfil this right.

Employers are required to adapt the workplace in such a way that basic needs of working women are satisfied. Employers engaging 30 or more women workers are required to establish childcare centres with the contribution of working parents

according to their economic capacity in order to attend to children under 7 years of age.

Source: §140 of the Labour Code 1959; §6 of the Decree No. 231-2013 to protect and promote breastfeeding; §59 of the Law on Equal Opportunities for Women 2000

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)

Honduras 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, Decree No. 189, enacted in 1959 (last amended in 2015)
- Acuerdo núm. STSS-053-04 por el que se modifica el Reglamento General de Medidas Preventivas de Accidentes de Trabajo y Enfermedades Profesionales.
- Labour Inspection Act (Decree 178-2016)

Employer Cares

An employer is required to take necessary action to ensure health and safety of workers in the performance of all aspects of work, in the workplace. The Constitution of Honduras states that it is the duty of each employer to comply with and enforce at the premises of their establishments the OSH laws and regulations, take appropriate security measures to prevent occupational hazards and ensure the physical and mental health of workers. The General Regulation on Occupational Accidents and Diseases Prevention Measures 2004 aims to provide safety and health conditions in which the work must be carried out at the workplace, without prejudice to the regulations that are enacted in each particular activity.

It is obligatory for the employers to implement an OSH plan in public and private workplaces. The plan must focus on the occupational health and safety activities; occupational health activities; and preventive medicine activities. This plan ensures that various registers are updated. Furthermore, the plan can be implemented exclusively or in conjunction with other workplaces.

The employer is under an obligation to

adopt OSH measures in order to prevent, reduce or eliminate occupational hazards.

Source: § 128(6) of the Constitution of Honduras; §391 of the Labour Code 1959; §9 of the STSS-053-04

Free Protection

According to the Labour Code, employers are required to provide employees with the equipment including clothing function at work for free. It is also the employer's responsibility to supervise the correct use of the personal protective equipment.

Source: §391 & 392 of the Labour Code 1959; §9(f) of the STSS-053-04

Training

In accordance with the Labour Code, the code of health and preventive measures of the Honduran Institute of Social Security, indicate that employers are required to provide training on health and safety at work. The employers may inform the workers appropriately and on time about the hazards present in their work and any preventive measures that must be considered.

Source: §398 of the Labour Code 1959; §9(n & o) of the STSS-053-04; § 37-39 of the STSS-001-02

Labour Inspection System

Labour Inspection System is present in the country however it is not in line with the requirements of Convention 81. The General Inspectorate monitors the compliance with OSH provisions at the workplace by the employers.

Labour inspectors are authorized to enter and visit workplaces at any time during the day and the night. The Labour Inspectorate is obliged to provide legal advice and information to workers and employers on how to better comply with the legislation in force; issue orders which detail any non-compliance that have been identified during the visit and will impose sanctions accordingly. The Inspectorate also has the power to impose financial penalties and to order the temporary or partial closure of the workplace.

Government of Honduras has enacted a new legislation on Labour Inspection in 2016 which creates an Integrated Labour and Social Security Inspection System which ensures that legal provisions related to work, social security, safety and health are complied with by the workers and employers.

Source: §610-631 of the Labour Code 1959; §9 of the STSS-053-04; Labour Inspection Act (Decree 178-2016)

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

Honduras has ratified the Convention 102 only.

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, Decree No. 189, enacted in 1959 (last amended in 2015)
- Social Security Act (Agreement no. 003-JD-2005)

Income

Workers are entitled to the paid sick leave in case of temporary disability (caused by an occupational accident). Paid sick leave are provided at the rate of two paid sick days per month of employment during the first 12 months of employment and at the rate of four paid sick days per month thereafter, up to a maximum of 120 paid sick days. Leave may be extended up to one year and the worker must be fit to work at the end of a year.

If a worker is not insured and is a victim of occupational accident/disease, he/she is entitled to a corresponding suspension of employment contract up to 6 months, after which an employer may terminate the contract.

An employee must provide a medical certificate issued by a registered medical practitioner, registered Chinese medicine practitioner or registered dentist for any sick day for which he/she is claiming sickness allowance. Otherwise, a worker is not entitled to any sickness payment for that particular day.

During the first 3 days of non-occupational disease, an employee is paid 100% of his pay by the employer. From fourth day onwards, 50% is paid by the employer and 50% by the Social Security.

If disease/sickness continues after 6 months, benefit is paid from the Social Security, which is 23-75% of basic monthly earnings and varies according to the contributions made by an employee.

During the period of sickness/disease which prevents workers from work, an employer has the liability to pay:

- 50% salary for one month after continuous work of more than 3 but less than 6 months;
- 50% salary for two months after continuous work of more than 6 but less than 9 months;
- 50% salary for 3 months after continuous work of more than 9 months; and
- 30 days salary for each year of service after continuous work of more than 5 years

Sick leave is not allowed for reasons other than the worker's own poor health or injury. Thus, a worker, for example, cannot claim sickness allowance on absence from work to care for his/her sick child.

Source: §100 & 104 of the Labour Code 1959

Medical Care

Insured workers are entitled to the medical benefits, including medical and surgical care, hospitalization, medicine, appliances and rehabilitation through Social Security.

Source: ISSA Country Profile

Job Security

If a worker is a victim of a non-occupational disease or caused by accidents, his/her employment is secure for up to six (6)

months, after which the employers may terminate the contract without responsibility on their part.

Source: §100 & 104 of the Labour Code 1959

receive.

Source: §76-83 of the Social Security Act (Agreement no. 003-JD-2005)

Disability / Work Injury Benefit

Work injuries are divided into four categories: (i) permanent total incapacity (ii) permanent partial incapacity (iii) temporary incapacity and (iv) fatal injury leading to death of a worker.

In the case of permanent total incapacity/disability (greater than 65%), the insured worker is entitled to the 70% of the monthly earnings as pension. In case of partial disability, pension depends on the assessed degree of disability (assessed degree of disability of 16% to 65%)

In the case of temporary disability (assessed degree of disability of 15% or less), 100% of insured worker's daily wage is paid after a 3-day waiting period until recovery, certification of permanent disability, or death.

In the case of fatal injury, 40% of pension a deceased worker received or would have been entitled to receive is paid to a widow(er) aged 65 or older (lower age may be acceptable if survivor spouse is disabled). 20% of deceased worker's pension is paid to each orphan younger than age 14 years; 40% for a full orphan. Dependent parents can also receive pension if there is no widow(er) or orphan. 20% of pension is paid to a dependent parent.

Total survivors' benefits can't exceed 100% of monthly pension a deceased worker received or would have been entitled to

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).

Honduras has ratified the Convention 102 only.

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 Security Act (Agreement no. 003-JD-2005)

Pension Rights

Law provides for full and deferred old-age pension. For full pension, a worker must have attained 65 years of age (60 years for women) with at least 15 years (180 months) of contributions. Old-age pension is 40% of an insured worker's basic monthly earnings plus 1% of earnings for each 12-month period of contributions exceeding 60 months. As for the deferred pension, additional 3% of basic monthly earnings (instead of 1%) are paid for each year of contributions after minimum pensionable age of 65 years for men (60 years for women). The amount of old-age pension can never be less than 50% and more than 80% of the basic monthly earning.

Old age settlement is paid as a lump sum to an employer with less than 15 years (180 months) of contribution at the pensionable age.

Source: §111-119 of the Social Security Act (Agreement no. 003-JD-2005)

Dependents' / Survivors' Benefit

The laws provide for survivor benefit to the dependents including widow/widower (aged 65 or older or disabled), children (under 14 years, age limit is 18 for a student and no age limit for orphans) and parents (older than 65 years of age or disabled). Dependents are entitled to survivors benefit on a worker's death resulting from an illness; the deceased must have had at least 36 months of contributions in the last six years; for a non-occupational accident-

related death, eight months of contributions in the 24 months before the death is required.

The deceased must be receiving or should be entitled to receive a pension at the time of death. Widow(er) aged 65 or older (lower age may be acceptable if survivor spouse is disabled) is entitled to receive 40% of pension a deceased worker received or would have been entitled to receive. The widow(er) also receives a lump-sum corresponding to 12 monthly earnings of the deceased pensioner. 20% of deceased worker's pension is paid to each orphan younger than age 14 years; 40% for a full orphan. Age can be extended to 18 if the orphan is a student. Dependent parents can also receive pension if there is no widow(er) or orphan. 20% of pension is paid to a dependent parent.

Total survivors' benefits can't exceed 100% of monthly pension a deceased worker received or would have been entitled to receive.

Survivors' pension for spouses ceases on remarriage.

Source: §123-132 of the Social Security Act (Agreement no. 003-JD-2005)

Unemployment Benefits

There is no provision for monetary unemployment benefit under Honduran labour laws. However, in the case of an unemployed worker's illness within the first 2 months of unemployment, Social Security provides for 60 days of general care and 6 months of specialist care.

Source: §36 of the Social Security Act (Agreement no. 003-JD-2005)

Invalidity Benefits

The laws provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. The insured worker must be assessed with a loss of at least 66.7% of earning capacity and was employed when the disability began and had at least 36 months of contributions in the last 6 years, 40% of a worker's basic monthly earnings plus 1% for each year of contributions exceeding 5 years (60 months).

Employees with lesser contribution are entitled to disability settlement; insured person's contributions are paid as a lump sum.

Source: §105, 110 & 111 of the Social Security Act (Agreement no. 003-JD-2005)

10/13 FAIR TREATMENT

ILO Conventions

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

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

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

Honduras has ratified the Conventions 100 and 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.

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

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

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

Regulations on fair treatment:

- Constitution of Honduras, 1982, last revised in 2013
- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)
- Penal Code, 1983 (last amended in 2014)
- Law on Equal Opportunities for Women, 2000

Equal Pay

Labour law guarantees the provision of the principle of equal remuneration for work of equal value between workers applies for all workers without any discrimination on the basis of sex, age, race, nationality, religion, political, or trade union activities. Law on Equal Opportunities for Women requires equal pay for equal work without discrimination, provided that the job, the hours and conditions of efficiency and service are also equal.

Source: § 128(3) of the Constitution of Honduras 1982; §367 of the Labour Code 1959; §44 of the Law on Equal Opportunities for Women 2000

Sexual Harassment

Law prohibits sexual harassment of women at workplace. Employers are liable for any act of unlawful harassment (and discrimination) by an employee employed by him/her unless the employer shows that he/she has taken all reasonably practicable steps to prevent the unlawful act.

Sexual harassment occurs when the harasser makes a sexual advance or request for sexual favours, or engages in other

conduct of a sexual nature towards the victim in circumstances where the victim does not welcome such conduct and in circumstances, where the harasser should reasonably have anticipated that the victim would be offended, humiliated, or intimidated.

The Honduran Criminal Code defines sexual harasser as a person who, taking advantage of a superior position, be it administrative or of similar status, causes its victim instability within their work conditions, such as disqualification for consideration in activities within the work place; consideration in relation to salary increase; denial or hindrance in relation to promotions; as punishment due to rejection to inadequate advances, such as insinuations or requests for sexual favours for themselves or for third parties.”

The harasser alone or together with other persons engages in conduct of a sexual nature creates a sexually hostile or intimidating work atmosphere for the victim. Even seemingly inoffensive sexual conversations that are not addressed to a single employee may result in instances of sexual harassment.

Law on Equal Opportunities for Women 2000 regulates the procedure that has to be followed in cases of sexual harassment. A worker has a right to terminate the employment contract without giving due notice if an employer commits an act of sexual harassment. In case the harasser is an employee, the employer can terminate him or her with no responsibility on its part (however, special procedures must be followed before the competent authorities).

Honduran Labour Code does not regulate

sexual harassment in the workplace; therefore, the employers have to design their own regulations, define what constitutes sexual harassment, the procedures to follow, and the appropriate sanctions into their Work Rules. Harassed employees must notify the corresponding person and/or department within their company, after which, the employee must notify the State's Labour Department, which will proceed with the immediate investigation of the claim presented to it.

Law on Equal Opportunities for Women provides for penalties of one to three years of imprisonment. Law requires immediate termination of a worker who engages in sexual harassment.

Source: §60 of the Law on Equal Opportunities for Women 2000; §147(A) of the Penal Code 1983

Non-Discrimination

In accordance with Constitution and Labour Code, there can't be any discrimination on the ground of race, gender/sex, nationality, age, economic/social status, political beliefs, language, religion, disability and union activity.

In accordance with the Constitution, Honduran workers must be given preference in hiring over foreign workers. The Constitution further prohibits employers from hiring less than 90 percent Honduran workers and to pay them less than 85 percent of the total amount of the salaries paid in the respective enterprises. Those percentages may be modified in exceptional cases specified by law.

Under the Law on Equal Opportunities for Women, discrimination on the base of gender or age is not allowed. Employers are

prohibited from using pregnancy tests as prerequisite for employment. Employers must provide equal opportunities to women in the areas of employment recruitment, training and education and should prohibit gender discrimination in staff cuts and dismissals.

Employers are prohibited from specifying in employment advertisement the requirements regarding person's sex, age, religion or marital status except where due to the nature of work, this specification is required. In such a case, employer must have authorization from employer to publish such notice.

Source: §60 & 137 of the Constitution of Honduras 1982; §12 of the Labour Code 1959; §44-49 & 55 of the Law on Equal Opportunities for Women 2000

Equal Choice of Profession

In accordance with the provisions of Honduran Constitution, every person has the right to work under equitable and satisfactory working conditions, to choose his occupation freely and to give it up, and to protection against unemployment. Women can work in the same industries men as no restrictive provision could be located in the law.

Source: §127 of the Constitution of Honduras 1982

11/13 MINORS & YOUTH

ILO Conventions

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Honduras has ratified the Conventions 138 and 182.

Summary of Provisions under ILO Conventions

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

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

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

Regulations on minors and youth:

- Constitution of Honduras, 1982, last revised in 2013
- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)
- Decreto No. 73-96 por el que se dicta el Código de la Niñez y la Adolescencia, 5 de septiembre de 1996

Minimum Age for Employment

Minimum age for employment is set as 16 years in the Constitution. However, the minimum wage for employment is 14 years in accordance with the labour code.

The constitution does not allow a child to work before reaching an adequate minimum age. The labour authorities may authorize the employment of minors less than 16 years of age when they deem it indispensable for their own support or for the support of their parents or brothers and sisters provided that their working does not hinder their compliance with the requirements of mandatory education. For minors less than seventeen years of age, the work period, which must be daytime, may not exceed six hours a day or thirty hours a week, for any kind of work. Night work is prohibited for children.

The education officially provided shall be free and compulsory for a year at the pre-basic level and entirely at the basic and intermediate levels. This education shall be fully funded by the State, which shall establish compulsion mechanisms to enforce its provision.

Under the Fundamental Education Law, the compulsory education age is 17 years. The

intermediate or middle level education completes when a person reaches the age of 17 years and is equivalent to three years of pre-basic education, 8 years of basic education and three years of intermediate level education. The education system is based on the principle that it is free and compulsory.

Source: § 124, 128(7) & 171 of the Constitution of Honduras 1982; §32-33 of the Labour Code 1959; §12-124 of the Code of Childhood and Adolescence; §8, 13, 20-23 of the Fundamental Education Law (Decree 262-2011)

Minimum Age for Hazardous Work

Minimum Age for Hazardous Work is set as 18 years. The Constitution prohibits a child from engaging in any occupation or employment which would prejudice his health, education, or interfere with his physical, mental or moral development. Children cannot perform work involving exposure to: toxic or harmful substances, high noise, extreme temperatures, handling of heavy loads, agriculture, etc.

Executive Agreement STSS-211-01 prohibits all persons younger than age 18 from night work, full-time work, and hazardous work, which includes work in construction, manufacturing, hunting, mining, street work, fishing, street cleaning, and quarrying.

Source: § 124 of the Constitution of Honduras 1982; §32 & 122 of the Child and Adolescents Code; US Findings on the Worst Forms of Child Labour Report

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.

Honduras 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:

- Constitution of Honduras, 1982, last revised in 2013
- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)
- Anti-Trafficking Act, 2012

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

Source: § 320-333 of the Labour Code 1959

Prohibition on Forced and Compulsory Labour

Forced Labour is prohibited under the law. No one can be forced to work without pay or without their consent.

Source: Anti-Trafficking Act Decree no. 59-2012; USDoS Country Report

Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs after serving due notice on their employer. For more information on this, please follow the section on employment security.

Source: §116 of the Labour Code 1959

Inhumane Working Conditions

Working time may be extended beyond normal working hours of forty-four hours per week and eight hours a day. However, total hours of work inclusive of overtime must not exceed twelve hours a day. Employer may not require a worker to perform overtime work more than 4 times a week. The total maximum overtime hours in a week are 16 hours. Overtime is prohibited for dangerous and unhealthy work.

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)

Honduras has ratified both 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 Honduras, 1982, last revised in 2013
- Labour Code, Decree No. 189, enacted in 1959 (last amended in 2015)

Freedom to Join and Form a Union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. This right is regulated by the labour code. In accordance with the Constitution, workers and employers are entitled to associate freely for purposes exclusively related to their economic and social activities, by forming trade unions or professional associations, according to law.

Union is any permanent association of workers, employers or people independent of profession or trade, formed exclusively for the study, improvement and protection of their economic interests and common social rights.

For the purpose of registration and recognition of legal personality of trade unions, union's representatives must submit to Ministry of Labour and Social Welfare, through the Directorate General of work, the relevant application, accompanied by the following documents, all in plain paper: certification of the foundation, with the signatures of those attending, or who signed for them, and annotation of their respective identity cards; certification of the election of the interim board, with the same requirements; certification of the minutes of the meeting which approved the statute.

The Ministry of Labour and Social Welfare

has 15 days to review the documentation and pass a resolution on recognition of legal status of the union. The certification is then published for three consecutive times in the official gazette and the union must keep a copy of the publication.

In case of any amendments in bylaws, same procedure has to be followed again. Modification of trade union rules is not valid without approval the ministry of labour and social welfare.

Source: §128(14) of the Constitution of Honduras 1982; §470-474 of the Labour Code 1959

Freedom of Collective Bargaining

Right to collective bargaining is recognized by the Constitution and regulated by Labour Code. The constitution protects individual and collective contracts between employers and workers.

Collective bargaining agreement is a written agreement on conditions of employment concluded between employers, a group of employers or one or several organizations of employers, on the one hand, and on the other, one or more workers' organizations, representatives of the workers of one or more companies or groups of workers associated temporarily.

A collective bargaining agreement (CBA) usually provides better benefits to the worker than those provided in the law. If a CBA has provisions which are less favourable than those provided under the law, it cannot be enforced. The provisions of CBA are applicable to all workers of the classes concerned that are employed in the companies included in the contract; unless specifically provided otherwise.

A CBA may be concluded for definite or indefinite time period. In case the duration of a CBA is not expressly mentioned, it is presumed to be held for successive terms of one year each. A written statement must be provided by either party to terminate the CBA. If a written statement is not provided within 60 days, the CBA is considered to be extended for successive period of another year.

Collective agreements also specify their scope of application. This can be an enterprise, a group of enterprises, an industry or branch of industry, or one or several sectors of economic activities.

A CBA must be registered with the Directorate General by either party. Employers are required to place the agreement in visible places in the establishment or by providing easy access to workers by printed or typewritten copies of the contract. Directorate General may request the Secretary of Labour and Social Welfare to publish a collective agreement, if necessary.

The Economic and Social Council was earlier established under a 2001 Presidential Decree however under a 2013 Decree by Legislature, the Council has been re-established. It is a permanent tripartite consultative forum and has been established to analyse and issue opinions on economic policies linked to the labour market, wage policy, employment policy, educational policy, social protection policy, professional and technical training for workers, increasing the enterprise competitiveness, and improvements in the quality of workers' life. The aim is to promote social dialogue between productive sectors, labour and government. The Council issues non-binding opinions on proposed state laws

regulating economic and labour matters and similarly economic and social policies of the country.

The Council is tripartite in nature and has four members each from worker, employer and government groups forming its general assembly.

Source: §128(15) of the Constitution of Honduras 1982; §53-80 of the Labour Code 1959; Decree 292-2013

Right to Strike

Right to strike is enshrined in the Constitution and regulated by the Labour Code. However, the requirement to observe excessively long cooling-off period and authorities' power to unilaterally prohibit or limit strike action eventually frustrates the right to strike.

A strike is the collective, temporary and peaceful suspension of work, by the workers of an establishment or business purposes economic and professional proposed to their employers and subject to the procedures set out in this title. Common courts must punish according to the law all acts of coercion or violence to run with during a strike against persons or property.

The purpose of the strike is to get the balance between the various factors of production, harmonizing the labour rights with those of equity.

Strike is legal only after all the methods of dispute resolution (negotiation, conciliation and arbitration) fail; at least two-third of the workers in an establishment must approve it by secret ballot; inform the employer at least 06 days prior to the proposed date of strike; and

meet the other requirements established in the labour code.

The striker's employment contract suspends during the period of strike. However, the executive is authorized to assume the management and administration time essential to prevent damage to the community and take all necessary steps to restore services and ensuring suspended maintenance, by special decree indicating the basis of the measure.

The strike may end by arrangement between employers and workers by award of the person, commission or tribunal freely chosen by the parties and award by the respective board of conciliation and arbitration. Otherwise, the employer or its representatives may conduct new contracts with the strikers or any other class of workers, individually or collectively, for the provision of work suspended, except in special cases determined by this code.

Source: § 128(13) of the Constitution of Honduras 1982; §550-589 of the Labour Code 1959

QUESTIONNAIRE

DECENTWORKCHECK.ORG

Check

Decent Work Check Honduras is a product of WageIndicator.org and
www.tusalario.org/honduras



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"/> |

- | | | | | |
|-----|---|---|--------------------------|--------------------------|
| 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"/> |

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.

Honduras scored 42 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.