USA

Decent Work Check 2020

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.

The authors

Iftikhar Ahmad is a comparative labour law expert and works as Labour Law Specialist with WageIndicator Foundation. He can be contacted at iftikharahmad@wageindicator.org

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Bibliographical information


For an updated version in the national language, please refer to https://paywizard.org/ & https://tusalario.org/usa

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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](http://www.decentworkcheck.org) During 2020, 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. Fair Labour Standards Act, 1938
2. The Worker Adjustment and Retraining Notification Act (WARN), 1988
3. Family and Medical Leave Act, 1993
5. Occupational Safety and Health Act, 1970
7. The Equal Pay Act, 1963
8. Title 29, Ch. XIV, Part 1604, Sec.11
9. Title 18 of US Code
ILO Conventions

Minimum wage: Convention 131 (1970)
Regular pay & wage protection: Conventions 95 (1949) and 117(1962)

USA has not ratified the Conventions 95, 117 & 131 only.

Summary of Provisions under ILO Conventions

The minimum wage must cover the living expenses of the employee and his/her family members. Moreover, it must relate reasonably to the general level of wages earned and the living standard of other social groups. Wages must be paid regularly on a daily, weekly, fortnightly or monthly basis.
Regulations on work and wages:
  • Fair Labour Standards Act, 1938

**Minimum Wage**

The Federal minimum wage, effective from 24th July 2009, is $7.25/hour. State and Federal level minimum wage rates may differ however workers are entitled to the higher rate (whether it is state rate or the federal rate).

**Regular Pay**

Workers are entitled to their pay on a regular and timely basis. Employers can set the pay period on monthly or fortnightly basis.
ILO Conventions

Compensation overtime: Convention 01 (1919)
Night work: Convention 171 (1990)

USA has not ratified the Convention 01 & 171.

Summary of Provisions under ILO Conventions

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

Night work means all work which is performed during a period of not less than seven (07) consecutive hours, including the interval from midnight to 5 a.m. A night worker is a worker whose work requires performance of a substantial number of hours of night work which exceeds a specified limit (at least 3 hours). Convention 171 requires that night workers be compensated with reduced working time or higher pay or similar benefits. Similar provisions fare 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:
- Fair Labour Standards Act, 1938

Overtime Compensation

In accordance with the section 207 of FLSA, if a non-exempt employee works beyond the stipulated working hours, i.e., 40 hours a week, he/she is entitled to an overtime pay that is one and a half times the regular rate of his ordinary pay (150% of the regular wage rate).

Night Work Compensation

There is no special pay premium for employees working overnight.

Compensatory Holidays / Rest Days

Compensatory rest of one and a half hours is available for each hour worked as overtime. However, there is no provision in the law requiring employers to grant compensatory holidays/rest days for working over weekend/public holidays.

Weekend / Public Holiday Work Compensation

There is no special pay premium for employees working over weekends/public 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.

USA has not ratified the Conventions 14, 47, 106 & 132.

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:
- Fair Labour Standards Act, 1938

**Paid Vacation / Annual Leave**

There is no provision in the federal law entitling workers to paid annual leave. No federal statutory provisions establishing an entitlement to public holidays identified.

**Pay on Public Holidays**

There is no provision in the federal law entitling workers to paid public holidays. However, keeping in view the beneficial nature of labour laws, it is assumed that that workers are paid for these days.

**Weekly Rest Days**

There is no general statutory provision on weekly rest. Workers are generally entitled to at least 24 hours of weekly rest.
ILO Conventions

Convention 158 (1982) on employment termination

USA 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:
  • The Worker Adjustment and Retraining Notification Act (WARN), 1988

Written Employment Particulars

There is no provision in the federal level US employment law which requires an employer to provide a written statement of particulars to a newly hired employee.

Fixed Term Contracts

American labour Law allows hiring fixed term contract workers for tasks of permanent nature.

Probation Period

No federal law fixes maximum duration of probation period. Employees working under a collective bargaining agreement usually have a probationary period of 30 to 90 days.

Notice Requirement

There is no requirement, under the law, to serve a notice before terminating an employee. However, notice requirement may be part of individual employment contract and collective bargaining agreement. The Worker Adjustment and Retraining Notification Act (WARN), however requires 60-days’ notice in writing regarding loss of employment due to a plant closing or mass layoff by an employer who employs 100 or more employees.

Severance Pay

There is no statutory right to severance or redundancy pay. This may be part of collective bargaining agreement.
ILO Conventions

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

USA has not ratified the Conventions 156 & 165.

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:
- Family and Medical Leave Act, 1993

**Paternity Leave**

The above law provides for unpaid, but job protected, leave of 12 weeks in a 12-month period. This leave can be taken for the birth and care of a new born child.

**Parental Leave**

The above law provides for unpaid, but job protected, leave of 12 weeks in a 12-month period. This leave can be taken for the birth and care of a new born child.

**Flexible Work Option for Parents / Work-Life Balance**

With the employer’s permission, the maternity/paternity leave may be taken in blocks of time or by reducing the normal weekly or daily work schedule. However, part-time work or flex-time options are not provided under US employment law.
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.

USA has not ratified the Conventions 103 & 183.

Summary of Provisions under ILO Convention

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

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

The total maternity leave should last at least 14 weeks.

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

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

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

After childbirth and on re-joining work, a worker must be allowed paid nursing breaks for breast-feeding the child.
Regulations on maternity and work:
• Family and Medical Leave Act, 1993
• The Pregnancy Discrimination Act, 1978

Free Medical Care

Insured workers are eligible for all types of hospitalization benefits.

No Harmful Work

There is a general provision in Occupational Safety and Health Act under which employers are required to provide their employees a workplace which is free of all work-related hazards.

Maternity Leave

Female employees are entitled to a maximum of twelve weeks (84 days) unpaid but job-protected maternity leave.

Income

The maternity leave is awarded without pay.

Protection from Dismissals

Under the FMLA, an employer can't dismiss or otherwise penalize an employee or threaten to do so because of maternity or adoption leave or intent to take leave. Similarly, under the Civil Rights Act and Pregnancy Discrimination Act, an employer with 15 or more employees cannot dismiss a pregnant employee because of her pregnancy or pregnancy-related condition.

Right to Return to Same Position

Workers have the right to return to same or equivalent position on conclusion of maternity or paternity leave.

Breastfeeding

Law requires employers to provide nursing breaks for new mothers in order express breast milk for nursing child.
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)

USA has not ratified the Conventions 81 & 155.

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:
  - Occupational Safety and Health Act, 1970

Employer Cares

Section 5 of above Act makes it obligatory on the employer to provide safe and healthy working environment to his employees.

Free Protection

An employer is required to provide free of cost personal protective equipment to protect employees from workplace hazards.

Training

In accordance with the Act, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his employees.

Labour Inspection System

The above act provides for an independent labour inspection system in the country. Occupational Safety and Health Administration inspects workplaces for compliance with occupational safety and health related provisions.
ILO Conventions

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

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

Summary of Provisions under ILO Conventions

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

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

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

If a worker is disabled due to an occupational disease or accident, he/she must receive a higher benefit. In the case of temporary or total incapacity/disability, a worker may at least be provided 50% of his average wage while in the case of fatal injury, the survivors may be provided with 40% of the deceased worker’s average wage in periodical payments.
Regulations on sick leave & Employment Injury Benefits:  
Family and Medical Leave Act, 1993

**Income**

Workers are allowed 12 weeks of unpaid, but job-protected, leave if they are unable to work due to some serious health condition.

**Medical Care**

Medical benefits are available for insured workers.

**Job Security**

Workers have job security during the 12-week leave allowed under the FMLA.

**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, amount of compensation paid is 66.6% of an insured worker’s average earnings is paid for the duration of disability.

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability.

In the case of temporary disability, amount of compensation paid is 66.6% of an insured worker's average earnings. this benefit is paid after a waiting period of three to seven days. The benefits are paid until worker's full recovery or certification of permanent disability

In the case of fatal injury, dependents (widow/widower/minor children/parents/brothers and sisters) receive survivors' benefit. A widow(er) gets 35-70% of a deceased worker's earnings as benefit while widow(er) with dependent children gets 60-80% of deceased worker’s earnings.
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)

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

Summary of Provisions under ILO Conventions

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

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

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

Invalidity benefit is provided when a protected person is unable to engage in a gainful employment, before standard retirement age, due to a non-occupational chronic condition resulting in disease, injury or disability. Invalidity Benefit must at least be 40% of the reference wage.
Regulations on social security:
- Social Security Act, 1935

Pension Rights

Above law provide for both full and reduced/early pension. For full pension, a worker must have attained 66 years of age with at least 40 quarters of coverage. A reduced pension is paid from age 62. The pension is based on the average of the insured's 35 highest years of earnings indexed for past wage inflation, up to age 62. There is no minimum pension for workers reaching age 62 after 1981. The maximum pension in 2011 was $2,366.

Dependents'/Survivors' Benefit

The above laws provide for survivor benefit (these include dependents including widow, widower, children). The deceased worker must be a pensioner at the time of death or had at least 40 quarters of coverage. The pension is 100% of the deceased's primary insurance amount at the full retirement age. This pension ceases on remarriage before 60 years of age.

Unemployment Benefits

Unemployment benefits are provided to workers losing their jobs under no fault of their own. Unemployment benefit, usually 50% of an insured worker's earnings, are paid for 26 weeks. In states with high level of unemployment, federal law provides unemployment benefit for an additional 20 weeks of coverage.

Invalidity Benefits

The above acts provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. The pension is based on the insured's average covered earnings (indexed for past wage inflation) from age 21 up to the onset of disability, excluding up to five years of the lowest earnings. There is no minimum pension while maximum monthly pension for insured persons disabled at age 50 in 2010 is $2,485. The maximum pension for insured persons disabled at any other age is computed based on that age.
ILO Conventions

Convention 111 (1958) lists the discrimination grounds which are forbidden. Convention 100 (1952) is about Equal Remuneration for Work of Equal Value.

USA has not ratified 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:
- The Equal Pay Act, 1963
- Title 29, Ch. XIV, Part 1604, Sec.11

Equal Pay

The Equal Pay Act prohibits sex-based wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort and responsibility under similar working conditions.

Sexual Harassment

Harassment on the basis of sex is a violation of section 703 of title VII. An employer is required to take all necessary steps to prevent sexual harassment from occurring. An employer is responsible for the acts of non-employees where employees were subjected to sexual harassment and the employer (i.e. supervisory employees, agents) failed to take immediate corrective action.

Non-Discrimination

Title VII of the Civil Rights Act prohibits employment discrimination based on race, colour, religion, sex and national origin. Later, other protected classes like "pregnancy, age, disability, genetic information, union membership".

Equal Choice of Profession

Women can work in the same industries as men. No restriction could be located in local laws.
ILO Conventions

Minimum Age: Convention 138 (1973)
Worst Forms of Child labour: Convention 182 (1999)

USA has ratified the Convention 182 only.

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:
• Fair Labour Standards Act, 1938

Minimum Age for Employment

The minimum age for employment in most of the non-farm jobs is 16 years.

Minimum Age for Hazardous Work

Minimum age for hazardous occupations, as determined by Secretary Labour, is at least 18 years.
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.

USA has ratified the Convention 105 only.

Summary of Provisions under ILO Conventions

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

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

If the total working hours, inclusive of overtime exceed 56 hours per week, the worker is considered to be working under inhumane working conditions.
Regulations on forced labour:
  • Title 18 of US Code

Prohibition on Forced and Compulsory Labor

In accordance with the section 1589 of Title 18 of US Code, forced or compulsory labour is a punishable offence.

Freedom to Change Jobs and Right to Quit

Workers have the right to change jobs (at-will employees). Employees with a contract may have notice requirements.
ILO Conventions

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

USA has not ratified the Conventions 87 & 98.

Summary of Provisions under ILO Conventions

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

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

Workers have the right to strike in order to defend their social and economic interests. It is incidental and corollary to the right to organize provided in ILO convention 87.
Regulations on trade unions:
  • National Labour Relations Act, 1935

Freedom to Join and Form a Union

The right to freedom of association is enshrined in the constitution and provided under the NLRA (Section 7)

Freedom of Collective Bargaining

Workers are free to bargain collectively through representatives of their own choosing (section 7).

Right to Strike

Right to strike is provided under the law however the provision allowing employers to hire permanent replacement undermines the right to strike.
DECENT WORK QUESTIONNAIRE
DecentWorkCheck USA is a product of WageIndicator.org and www.paywizard.org

<table>
<thead>
<tr>
<th>01/13 Work &amp; Wages</th>
<th>NR</th>
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<tbody>
<tr>
<td>1. I earn at least the minimum wage announced by the Government</td>
<td>😊</td>
<td></td>
<td></td>
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<tr>
<td>2. I get my pay on a regular basis. (daily, weekly, fortnightly, monthly)</td>
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<table>
<thead>
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<th>02/13 Compensation</th>
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<tbody>
<tr>
<td>3. Whenever I work overtime, I always get compensation</td>
<td>😊</td>
<td></td>
<td></td>
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<tr>
<td>(Overtime rate is fixed at a higher rate)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Whenever I work at night, I get higher compensation for night work</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. I get compensatory holiday when I have to work on a public holiday or weekly rest day</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Whenever I work on a weekly rest day or public holiday, I get due compensation for it</td>
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<table>
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<tr>
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<th>NR</th>
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</thead>
<tbody>
<tr>
<td>7. How many weeks of paid annual leave are you entitled to?*</td>
<td>😊</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>8. I get paid during public (national and religious) holidays</td>
<td>😊</td>
<td>2</td>
<td>4*</td>
</tr>
<tr>
<td>9. I get a weekly rest period of at least one day (i.e. 24 hours) in a week</td>
<td>😊</td>
<td></td>
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<table>
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<tr>
<th>04/13 Employment Security</th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>10. I was provided a written statement of particulars at the start of my employment</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. My employer does not hire workers on fixed terms contracts for tasks of permanent nature</td>
<td>😊</td>
<td></td>
<td></td>
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<tr>
<td>Please tick “NO” if your employer hires contract workers for permanent tasks</td>
<td></td>
<td></td>
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<tr>
<td>12. My probation period is only 06 months</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13. My employer gives due notice before terminating my employment contract (or pays in lieu of notice)</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14. My employer offers severance pay in case of termination of employment</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Severance pay is provided under the law. It is dependent on wages of an employee and length of service</td>
<td></td>
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<table>
<thead>
<tr>
<th>05/13 Family Responsibilities</th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>15. My employer provides paid paternity leave</td>
<td>😊</td>
<td></td>
<td></td>
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<tr>
<td>This leave is for new fathers/partners and is given at the time of child birth</td>
<td></td>
<td></td>
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<tr>
<td>16. My employer provides (paid or unpaid) parental leave</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>This leave is provided once maternity and paternity leaves have been exhausted. Can be taken by either parent or both the parents consecutively.</td>
<td></td>
<td></td>
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<tr>
<td>17. My work schedule is flexible enough to combine work with family responsibilities</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Through part-time work or other flexible options</td>
<td></td>
<td></td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>06/13 Maternity &amp; Work</th>
<th>NR</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>18. I get free ante and post natal medical care</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>19. During pregnancy, I am exempted from nightshifts (night work) or hazardous work</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20. My maternity leave lasts at least 14 weeks</td>
<td>😊</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

* On question 7, only 3 or 4 working weeks is equivalent to a “YES”.

** Check **

DecentWorkCheck USA is a product of WageIndicator.org and www.paywizard.org/main
21. During my maternity leave, I get at least 2/3rd of my former salary

22. I am protected from dismissal during the period of pregnancy. Workers can still be dismissed for reasons not related to pregnancy like conduct or capacity

23. I have the right to get same/similar job when I return from maternity leave

24. My employer allows nursing breaks, during working hours, to feed my child

### 07/13 Health & Safety

25. My employer makes sure my workplace is safe and healthy

26. My employer provides protective equipment, including protective clothing, free of cost

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

28. My workplace is visited by the labour inspector at least once a year to check compliance of labour laws at my workplace

### 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

30. I have access to free medical care during my sickness and work injury

31. My employment is secure during the first 6 months of my illness

32. I get adequate compensation in the case of an occupational accident/work injury or occupational disease

### 09/13 Social Security

33. I am entitled to a pension when I turn 60

34. When I, as a worker, die, my next of kin/survivors get some benefit

35. I get unemployment benefit in case I lose my job

36. I have access to invalidity benefit in case I am unable to earn due to a nonoccupational sickness, injury or accident

### 10/13 Fair Treatment

37. My employer ensure equal pay for equal/similar work (work of equal value) without any discrimination

38. My employer take strict action against sexual harassment at workplace

39. I am treated equally in employment opportunities (appointment, promotion, training and transfer) without discrimination on the basis of:

   - Sex/Gender
   - Race
   - Colour
   - Religion
   - Political Opinion

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

Social Origin/Caste

Family responsibilities/family status

Age

Disability/HIV-AIDS

Trade union membership and related activities

Language

Sexual Orientation (homosexual, bisexual or heterosexual orientation)

Marital Status

Physical Appearance

Pregnancy/Maternity

40. I, as a woman, can work in the same industries as men and have the freedom to choose my profession

11/13 Minors & Youth

41. In my workplace, children under 15 are forbidden

42. In my workplace, children under 18 are forbidden for hazardous work

12/13 Forced Labour

43. I have the right to terminate employment at will or after serving a notice

44. My employer keeps my workplace free of forced or bonded labour

45. My total hours of work, inclusive of overtime, do not exceed 56 hours per week

13/13 Trade Union Rights

46. I have a labour union at my workplace

47. I have the right to join a union at my workplace

48. My employer allows collective bargaining at my workplace

49. I can defend, with my colleagues, our social and economic interests through "strike" without any fear of discrimination
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.**

| USA | scored | 31 | 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.