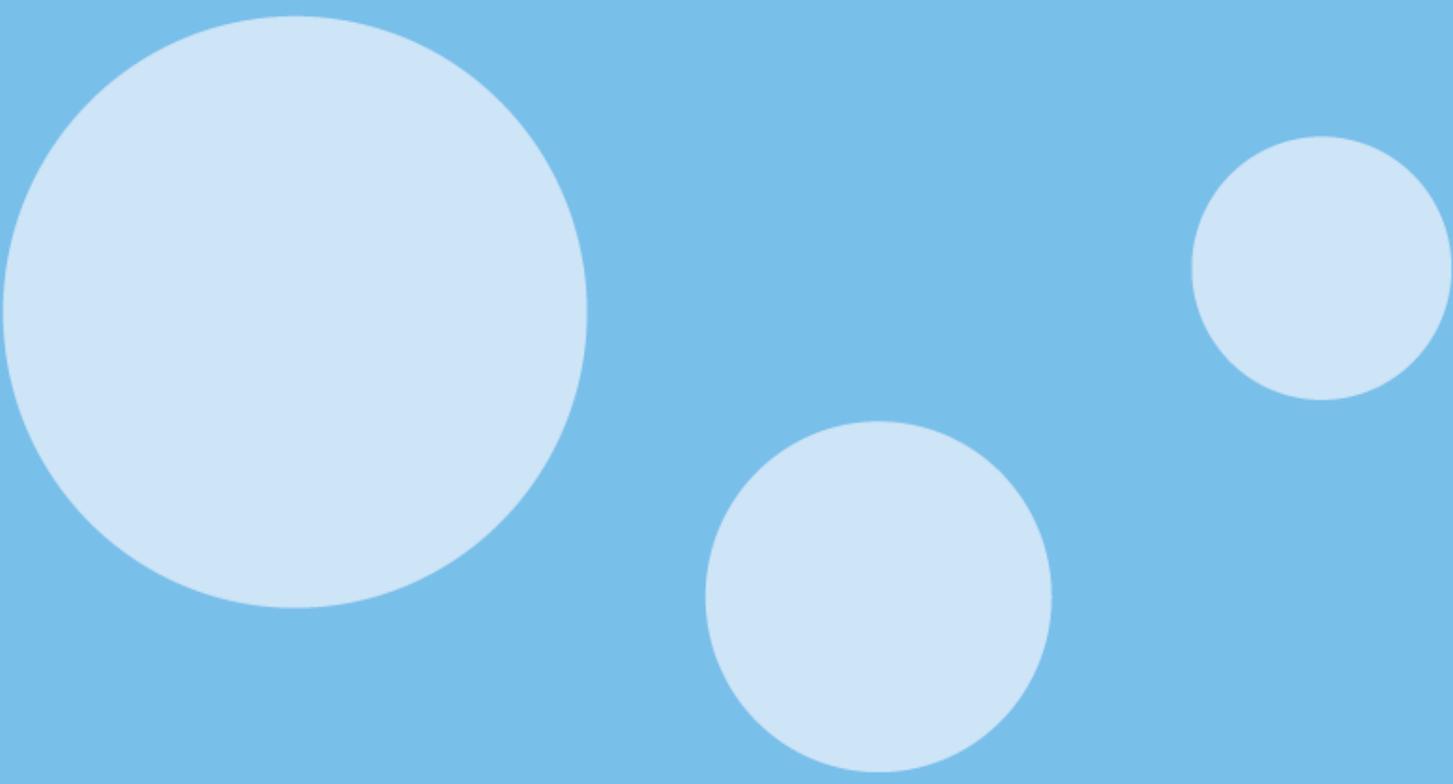


DecentWorkCheck

**Analysing De-Jure Labour Market Institutions from
Worker Rights Perspective**

Iftikhar Ahmad



WageIndicator.org

Abstract

WageIndicator presents a new way of comparing labour market regulations worldwide, i.e., through worker rights perspective. We document a new tool, i.e., DecentWorkCheck (DWC) and use it to analyse de-jure labour market institutions in 70 countries of the world. These include low, middle and high-income countries (World Bank classification). We consider nine important elements of decent work agenda and convert these into legal indicators/questions that workers can easily respond to and know whether they are employed in decent working conditions or not. De-facto institutions will only be informed by workers using these Checks in meetings, awareness raising campaigns organised by WageIndicator Foundation in our sample countries. Through DecentWorkCheck we introduce an online and offline tool that can be used by workers to benchmark their condition against national and international work standards. The tool creates awareness among workers and employers about their rights and obligations vis-à-vis international labour standards. This paper documents the methodology we would use in creating DecentWorkCheck and ranking of countries. It also presents a prototype of Revised DecentWorkCheck for Pakistan. Based on this methodology and revised Check, WageIndicator Foundation will create Checks for 70 countries of the world by mid 2013

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About Wage Indicator Foundation

The WageIndicator Foundation (hereafter referred to as the WageIndicator) is a non-profit organisation established in September 2003 under Dutch law. It started off as a project in 2000 in the Netherlands to make a website where women could find detailed information about current wages in a number of occupations. To collect data on women's wages, a survey was included in three largest women's magazines of the country and posted on several websites. The response was overwhelming. In 2001, a first *WageIndicator* website was launched. Its *Salary Check* showed wage information for 45 female-dominated occupations, attracting large numbers of web-visitors. From 2002 onwards the *Salary Check* also included wage information for male-dominated occupations. Since 2004, websites have been launched in many countries in Europe, North and South America, Africa, and Asia. In 2012, the WageIndicator runs websites in 65 countries with over 20 million web visitors per year. Of course, all national websites are in the language(s) of each particular country and feature national information. In 2007-08 it turned out that the information needs of the working people, especially in developing countries, centred more on labour law and minimum wage than on overall wages. Therefore, all national websites now include web pages with this sort of information as well.

Since 2007-08 the WageIndicator jointly with local partners undertakes projects in a range of developing countries to raise awareness about decent work and decent/living wages, to support compliance reporting, and to influence the discussion about the legislative structure of decent work and wages. All projects include a national website, functioning as a public library for the free consultation of information otherwise difficult to access. All projects include a range of activities to attract web-visitors (social media, search engine optimization, coalitions with major internet players), all establish a discussion platform and an email helpdesk, and – very crucial – they make all information available in printable formats. In addition, in countries with low Internet access, the WageIndicator undertakes face-to-face surveys targeting the labour force with questions about work and wages. Having established these online features, the next phase of operations consists of a range of so called offline activities, undertaken jointly with local partners, i.e. debates, talk shows on radio or television, articles in local newspapers, meetings with trade unions, employers' organisations, government officials, universities, labour support organisations, individual workers, and other relevant stakeholders.

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Table of Contents

1	Introduction	4
1.1	Background	4
1.2	DecentWorkCheck- An Innovative Concept	5
1.3	Main characteristics of DecentWorkCheck	6
1.4	Why focus de-jure labor market institutions	10
2	Methodology	11
2.0	Overview	11
2.1	Productive Work & Adequate earnings	12
2.2	Decent Working Hours	14
2.3	Employment Security	15
2.4	Combining Work and Life	18
2.5	Safe Working Environment	20
2.6	Social Security	22
2.7	Equal Treatment at work	24
2.8	Children at Work	26
2.9	Forced Labor	27
2.10	Social Dialogue/Trade Unions	28
3	DecentWorkCheck Prototype Pakistan	29

1 Introduction

1.1 Background

Decent Work is the type of work for which all of us aspire. It is done under conditions where:

- i. people are gainfully employed (and there exist adequate income and employment opportunities);
- ii. social protection system (labour protection and social security) is fully developed and accessible to all;
- iii. social dialogue and tripartism are promoted and encouraged; and
- iv. rights at work, as specified in ILO Declaration on Fundamental principles and Rights at Work and Core ILO Conventions, are practiced, promoted and respected.

The above four pre-conditions, usually referred to as "four strategic objectives", which once achieved promise decent work (International Labour Organization, 1999).

Decent Work, a term first used by ILO in 1999, has also been adopted by UN as one of the measurements of Millennium Development Goals (MDGs). Since 2005, Decent Work has been included as a target on the first MDG and ILO does all the reporting with regard to the achievement of this target (International Labour Organization, 2009).

While the first strategic objective seeks on creating income and employment opportunities, it is also concerned about quality of work. As indicated in above ILO Report (1999), there are different notions of "acceptable quality jobs" in different economies. Job quality is a multidimensional subject, which incorporates different dimensions of work and employment. These dimensions include labour compensation, i.e., wages, working hours, employment stability and fundamental rights at work as provisioned in core labour conventions, social protection, etc. All these facets of job quality (or inversely job insecurity) impact a worker's well being. However, as we contend in the coming paragraphs, there must be a mode through which workers, worldwide, can compare their working condition with ideal decent working conditions and know whether they are employed in quality jobs or not. Absence of such comparative tool proved to be the starting point for development of "DecentWorkCheck". We use different dimensions of job quality in creating "DecentWorkCheck". ILO refers to these aspects of job quality as the substantive elements linked with four strategic objectives mentioned above (International Labour Organization, 2012). Table 01 shows these

elements of job quality and the indicators that we are using to inform workers about their rights in their national settings.

1.2 DecentWorkCheck- An Innovative Concept

WageIndicator Foundation has been working on this idea since late 2007. In this paper, we present revised DecentWorkCheck, for around 70 countries with WageIndicator Foundation presence. The earlier version covered all substantive elements relating to Decent Work except "employment security" which is added in the new version. Similarly, questions posed under an earlier Check did not take into account different dimensions of decent work. Around 12 new questions have been added and same number of questions have been amended. The revised version addresses issues like pay premium for working at night and on weekly rest days, provision of written statement of employment particulars at the start of employment, hiring of fixed term contract workers, reasonable probation period, notice requirement before contract termination, severance allowance on contract termination, paternity and paternal leave; employment protection during maternity leave, right to return to same/similar position after maternity leave, nursing breaks for working mothers, labour inspection as a tool to maintain safe and healthy workplace, more grounds for discrimination, right to leave work, and the right to strike. DecentWorkCheck considers different work aspects, which are deemed important in attaining "decent work". The DecentWorkCheck makes the abstract Conventions and legal texts tangible and measurable in practice.

The DecentWorkCheck employs 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 their 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 DecentWorkCheck is based on de jure labour provisions, as found in the labour legislation. The employees themselves inform the real practice. DecentWorkCheck also takes a stance on desirability of national labour regulations and judges these against

relevant ILO Conventions. Through DecentWorkCheck, we introduce a tool for both online and offline use, allowing web visitors/income earners to test if their jobs and working conditions live up to national and international standards of 'decent work'.

Experiences gathered through WageIndicator show that workers benchmark their position in the labour market with that of colleagues, others in their professional group or branch of industry and use these new insights to actively improve their current position. WageIndicator has also observed that decent work deficits exist only because workers are not informed about their rights. Similarly, these violations exist because employers are not apprised of their obligations. WageIndicator websites reach a wide audience (**more than 20 million visitors in a year**). By placing the DecentWorkCheck as a web application prominently on their homepages and by active promotion and marketing in each country, chances are that international decent work standards are perceived more and more as rightful national standards. The DecentWorkCheck will also be offered for display at the websites of trade unions, associations of employers and other worker rights organizations.

1.3 Main characteristics of DecentWorkCheck

The main characteristics of DecentWorkCheck are as follows:

- Topics of DecentWorkCheck relate to ILO's current work on Decent Work Indicators. While ILO's work focuses more on statistics, WageIndicator's priority is to inform workers about their rights..DecentWorkCheck analyses de jure labour market institutions and provisions and compares these with international best practices as provided in international labour standards.
- The target population is the labour force and includes all types of workers, employees, employers or self-employed, whether they are formal or less formal.
- DecentWorkCheck aims to "create awareness among workers and employers about their rights and obligations respectively (and vice versa) vis-à-vis national and international labour standards. DecentWorkCheck 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. Employers can also use this as an employment law audit tool to examine whether their organizations are complying with local and international labour standards.

- DecentWorkCheck different from other indices like World Bank's Doing Business Indicators (Employing Workers Index-EWI¹), World Economic Forum's Global Competitiveness Report (Labour Market Efficiency Pillar²), Harvard/NBER Global Labour Survey³ or even ISSA's Social Security Programs throughout the World (SSPTW⁴) as it is not only descriptive in nature (like ISSA's SSPTW) and bereft of any subjective opinions (quite unlike EWI, GLS and GCR) but also covers a lot of different work related aspects. It is comprehensive when compared with all these labour market related indices. The table below shows how these indices are comparatively structured.

Table 1: Comparative Structures of Different Work Related Indices

Sub-Indicators	Issues Covered
<i>Employing Workers Index</i>	
Difficulty of hiring	<i>Fixed term contracts, minimum wage regulations</i>
Rigidity of Hours Index	<i>Paid vacations, non-standard work schedules (night work, holiday work and pay premiums)</i>
Difficulty if Redundancy Index	<i>Mandatory legal requirements on economic dismissal</i>
Redundancy Cost	<i>Weeks of salary (notice requirement and severance pay)</i>
<i>Global Competitiveness Index (Labour Market Efficiency)</i>	
Flexibility	<i>Cooperation in labour-employer relations, Flexibility of wage determination, Rigidity of employment, Hiring and firing practices, Redundancy costs, Extent and effect of taxation</i>
Efficient Use of Talent	<i>Pay and productivity, Reliance on professional management, Brain drain, Female participation in labour force *</i>
<i>The 2004 Global Labour Survey</i>	
General Economic Situation	<i>Economic growth; Unemployment and poverty; Influence of IMF and World Bank on country policies</i>
The Labour Market	<i>Wage-setting; Enforcement of minimum wage policies; Wage arrears; Prevalence of child labour; Gender discrimination</i>
Freedom of Association & Collective	<i>Legal and economic position of unions</i>

¹ <http://www.doingbusiness.org/data/exploretopics/employing-workers>

² <http://www.weforum.org/issues/global-competitiveness>

³ <http://www.nber.org/papers/w11598>

⁴ <http://www.ssa.gov/policy/docs/progdesc/ssptw/index.html>

Bargaining	
Labour Disputes	<i>Nature and frequency of industrial disputes; Institutions for resolving labour conflicts</i>
Employment Regulations & Working Conditions	<i>Effect of regulations and collective bargaining on labour contracts, work hours, hiring and firing decisions</i>
Employee Benefits	<i>Pension schemes; Sickness benefits; Unemployment insurance.</i>
Concluding Questions	<i>Respondents' views on several economic and political issues</i>
ISSA's Social Security Programs throughout the World	
Social Security	<i>Old-Age, Disability/Invalidity and Survivors' Benefits, Sickness and maternity benefits (cash benefits + medical care), Work Injury Benefits, Unemployment Benefits, Family Allowance</i>
WageIndicator's DecentWorkCheck	
Productive Work & Adequate earnings	<i>Minimum Wage, Regular and timely payment of wages, Overtime compensation, Compensation for night work, weekend work and holiday work</i>
Decent Working Hours	<i>Paid annual leave, Maximum hours of work (limits on overtime hours), Compensatory holidays for working on weekly/public holidays</i>
Employment Security	<i>Provision of a written statement of particulars at the start of employment, hiring fixed term contract workers for permanent tasks, Length of probation period, Notice requirements, Severance Pay</i>
Combining Work and Life	<i>Family Responsibilities (Paternity leave, Parental leave, Flex-time options), Maternity Protection (Maternity leave, Free medical care, Salary during leave, Exemption from hazardous/arduous work, Protection from dismissal, Right to return to same/similar job, Nursing breaks</i>
Safe Working Environment	<i>Health and Safety at Work (Safe workplace, Provision of free protective equipment, Safety training, Labour inspection esp. Occupational safety and health related)Sickness and Employment Injury (Paid sick leave, Access to free medical care, Employment security during illness, Work injury/disability benefit/survivors' benefits)</i>

Social Security	<i>Unemployment Benefit, Old-Age Pensions, Invalidity Benefit, Survivors' Benefit</i>
Equal Treatment at work	<i>Equal pay for work of equal value, sexual harassment laws, Occupational segregation, Equal treatment in employment</i>
Children at Work	<i>Minimum age for employment, Minimum age for hazardous work</i>
Forced Labour	<i>Forced labour, Worker's ability to terminate employment, Limit to maximum overtime hours</i>
Social Dialogue/Trade Unions	<i>Right to form and join unions, Right to bargain collectively, Right to strike</i>

- Employing Workers Index (EWI), Global Labour Survey (GLS) and Global Competitiveness Index (GCI) cover a limited number of variables and can't be used to measure decent work in a country. Moreover, these enumerate only the subjective opinions of local law firms, union leader & activists on local de-facto practices and business executives respectively. On the other hand, *DecentWorkCheck* is based on de-jure labour provisions and real practice in this case is informed only by the workers. Although above mentioned various indicators rank countries on the basis of labour market regulations, however they don't provide any knowledge of labour laws to workers or even employers. These indices can be used only by businesses and highly educated. *DecentWorkCheck* not only ranks countries on the basis of de-jure labour market institutions but also creates awareness among workers about their rights (as well as among employers).
- *DecentWorkCheck* is also comparable with corporate social responsibility tools like SA8000⁵ and UN Global Compact principles⁶. It is more elaborate and covers a lot more issues than these standards. Organizations, committed to corporate social responsibility and sustainability, may like to use *DecentWorkCheck* as a checklist whether they are following international best practices in the field or not.
- *DecentWorkCheck* 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.

⁵ SA8000, the most famous social standard for decent workplace, covers most of issues already covered under *DecentWorkCheck* however it does not refer to combining work and family (family responsibilities, maternity protection etc.) and social security measures (like old-age pension, work injury benefits, sickness benefits, invalidity and disability benefits).

⁶ The UN Global Compact is a combination of ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. Its four labour principles (freedom of association and collective bargaining, elimination of forced labour, abolition of child labour and elimination of discrimination in all aspects of employment).

- DecentWorkCheck can also be used as a comparative labour law tool and we can compare countries around the world and see which country has enacted more labour protective regime.
- The DecentWorkCheck would be a multilingual tool and similar across these countries. Paper-based DWC would supplement web DWCs in countries with low Internet access rates.
- DecentWorkCheck currently ranks countries on the basis of de-jure labour regulation however at some later stage, with enough data, we may also rank countries based on de-facto practices. What would still differentiate DecentWorkCheck from Global Labour Survey would be the factor that these practices would be informed by workers themselves and not by the ever-discontented trade union activists.

1.4 Why focus de-jure labour market institutions

While there are issues with focusing only on de-jure labour market institutions and provisions (namely existence of large informal sector, in developing countries, non-compliance coupled with tepid and lackluster implementation of labour laws), well drafted and inclusive (with least "exclusions") are still a pre-condition for attaining decent work. Well-drafted laws provide clear and explicit answers to difficult and perplexing questions. This point is quite lucidly summed up in the recent World Social Security Report 2010-11, which is of the view that even the widest and most expansive legal foundations can't achieve the desired outcomes if these are not enforced and backed by sufficient resources. Nonetheless, strong legal foundations are a pre-condition for securing higher provisions and resources. There is not a single situation where a country provides generous benefits (this report focuses on social security provisions but its insights can still be generalized) without a comprehensive legal basis (International Labour Organization, 2010). Similar points have been raised by Botero et al. (2004) that formal rules, although different from "on the ground" situation, still matter a lot.

2 DecentWorkCheck: Ranking Methodology

2.0 Overview

Under the following indicators/questions, we try to capture 12 different dimensions of labour market institutions. If we consider these from the point of view of 10 substantive elements of decent work agenda, we cover only 9 of these and leave only questions regarding creation of productive employment opportunities. This is because a worker can't respond clearly about *government's commitment to full employment* (during the current economic turmoil, most of the countries will get negative score, if we include this in our list!). Similarly, we treat *unemployment insurance/benefits* under Social Security. As is evident from the list of indicators below, we consider individual employment law, collective relations (or labour) law and social security laws. At the same time, we consider constitution of country as well in the cases of equality of opportunity, child labour, forced labour and the right to unionization.

For each of the above aspects of job quality, we describe below the construction of questions/indicators, their legal basis in UN Covenants and ILO Conventions or comments by different ILO committees like ILO Committee of Experts on Application of Conventions and Recommendations (CEACR) or Committee on Freedom of Association (CFA). Comments from ILO Committees are only referred to in case no relevant provisions are located in ILO conventions. We use emoticons/smiley (happy or sad face) for indicating whether a country meets international labour standards or not. Emoticons have been in use for a long time to represent body language. These emoticons convey our analysis to workers in the simplest possible language whether their country's labour laws are consistent with international labour standards or not.

Although *DecentWorkCheck* can be used by multiple groups as an awareness raising tool, however, it also makes an all encompassing assumption. It assumes that our ideal "employee works in a non-managerial post in a firm/establishment of at least 50 employees". This is because minimum wage, overtime and unionization rights are not applicable to the managerial or supervisory employees. Managerial and supervisory level employees may still use this tool to enhance their knowledge about their subordinates' rights and their own rights in other areas.

2.1 Productive Work & Adequate earnings

1. Minimum Wages

We report national minimum wages in national currency on monthly basis. The wages that we report in DecentWorkChecks are usually for unskilled workers. Countries usually set different types of wages for different regions (Pakistan, Indonesia), sectors (India, Sri Lanka), skill level (Pakistan, Nepal) or type of enterprises (as in Vietnam) and it is difficult to mention all these wages in DWC, so we mention only the lowest wage. If a worker is not even getting that low wage, he/she must be concerned about his working conditions. Some countries (especially in Europe and those following French industrial relations system) don't set minimum wage through laws, however collective bargaining agreements often set these wages. In that case, we look for the collective wage agreements and report those wages. In order to consider collective bargaining agreements in the place of labour regulations, the following two conditions must be fulfilled.

- i. These agreements should cover more than 50% of the workforce in a given sector (here manufacturing)
- ii. These should be extendable agreements, i.e., these apply to those workers and employers who were not actually party to these agreements.

The legal base for this indicator is found in Minimum Wage Fixing Convention, 1970 (No. 131). This Convention recommends taking into consideration both social factors (needs of workers and their families, cost of living/inflation, social security benefits) and economic factors (creation of employment, productivity, competitiveness etc.) while setting the minimum wage (article 3). As for scoring (happy or sad face), a country must have set the minimum wage at a level that is above World Bank's poverty line of \$1.25 a day, i.e., its monthly minimum wage when converted into US Dollar should be higher than \$37.5 per month. If a country's monthly minimum wage is less than \$37.5, its score decreases and it receives a sad face.

Legal Base: Article 3 of Minimum Wage Fixing Convention, 1970 (No. 131), Article 23 of the Universal Declaration of Human Rights, Article 7 of the International Covenant on Economic, Social & Cultural Rights (Fair Wage clauses)

Sources: US DOS Human Rights Reports, country labour codes, ILO Database of Conditions of Work and Employment Laws

2 Regular and timely payment of wages

ILO Convention 95, regarding protection of wages, requires that wages must be paid regularly. It also indicates that intervals for payment of wages can be prescribed by

national laws or regulations, agreed under a collective agreement or fixed by an arbitration award (article 11 and article 12 of convention 117). We report the national situation, as provided in employment laws, whether there are clear provisions in labour codes on regular payment of wages. If these provisions exist in national code, that country gets a happy face (and its score increases).

Legal Base: Article 12 of Protection of Wages Convention, 1949 (No. 95), Article 11 and 12 of Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117)

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws

3 Overtime Compensation

Business demands, sometimes, require workers to work extra hours. To a certain limit (56 hours in a week), workers are obliged to perform overtime work, if required by the employer. However, if an employer requires an employee to perform overtime work beyond that limit, he/she has the right to refuse.

In accordance with article 6 of the ILO Hours of Work (Industry) Convention, 1919 (No. 1), rate of overtime should not be less than one and one-quarter times (125%) the regular rate. Only those countries with overtime rates equal or higher than the one provided in above convention are given happy face.

Legal Base: Article 6 of Hours of Work (Industry) Convention, 1919 (No. 1)

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws

4 Compensation for night work, weekend work and holiday work

In accordance with article 8 of Night Work Convention, 1990 (No. 171), compensation for night work should recognize the nature of night work (it brings more fatigue and a worker is cut-off from social circle). Similar point is made in article 8 of the accompanying recommendation on night work, which emphasizes that such compensation should be in addition to the remuneration paid for the same work performed during the daytime. Night work is defined as the work performed for at least 7 consecutive hours especially during the interval from midnight (12:00 a.m.) to 5 a.m.

Similarly, those workers who have to perform work on weekly rest days or public holidays must be compensated fairly, which is additional to the normal wage rates, for working on these days. A country receives positive score only if it has enacted provisions regarding premium pay for working on night, weekly rest day and public holidays.

Legal Base: Article 8 of Night Work Convention, 1990 (No. 171)

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws

2.2 Decent Working Hours

1 Paid annual leave

Paid annual leave is the period of time, during a year, when workers can take time off from their work while still receiving income and other benefits. The paid annual leave is in addition to public holidays, sick leave, casual leave and maternity/paternity leave. In accordance with article 3 of Holidays with Pay Convention (Revised), 1970 (No. 132), every worker, with one year of service, should be entitled to at least 3 working weeks of paid annual leave. Only those countries receive positive score, which have instituted a paid annual leave of at least 3 working weeks.

Legal Base: Article 3 of Holidays with Pay Convention (Revised), 1970 (No. 132), Article 24 of Universal Declaration of Human Rights

Sources: Country Labour Codes, World Bank Doing Business Indicators, ILO Database of Conditions of Work and Employment Laws

2 Maximum hours of work (limits on overtime hours)

The first ILO Convention, adopted in 1919, required that working hours in any establishment should not be greater than 8 hours a day and 48-hours a week. Article 3 of the ILO Convention (001) also provided for certain exception in which this limit could be exceeded and workers could be asked to perform *overtime work*. Article 4 of this convention specifies that maximum working hours in a week should not exceed *56 hours on average*. Although ILO Convention (001) does not prescribe in what period this 56-hour average may be attained, we use this as a ceiling and if a country's maximum working hours (normal + overtime hours) exceed 56 hours in a week, it received a negative score. We also use this indicator in measuring existence of forced labour; if a worker is working over 56 hours in a work-week, he/she must be spending over 12 hours at the workplace which deprives him/her of the necessary 11 hour rest period in a day (taking into account long commutes).

Legal Base: Article 6 of Hours of Work (Industry) Convention, 1919 (No. 1), Article 24 of Universal Declaration of Human Rights

Sources: Country Labour Codes, World Bank Doing Business Indicators, ILO Database of Conditions of Work and Employment Laws

3 Compensatory holidays for working on weekly/public holidays

ILO Conventions 001 (Hours of Work in Industry), 014 (weekly rest in industry) and 106 (weekly rest in commerce/offices) stipulate the general standard that workers enjoy a rest period of at least 24 uninterrupted hours in every seven days. The ILO Conventions further provide that if a worker has to work over the weekend, a compensatory holiday of equivalent duration i.e., at least 24 hours, must be provided. Workers must also be provided with paid public holidays and they have to be compensated in time or remuneration for working on public and customary holidays (C172). A country receives positive score only if its law provides for compensatory holidays to those employees working on weekly rest days or public holidays.

Legal Base: Article 2 of Weekly Rest (Industry) Convention, 1921, Article 6 of Weekly Rest (Commerce and Offices) Convention, 1957, Article 5 of Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws

2.3 Employment Security

1 Provision of a written statement of particulars at the start of employment

An employment contract is an agreement between an employer and employee and is the basis of employment relationship. It regulates the terms and conditions of employment between employer and employees. A contract of employment may be written or oral however a worker must be provided with written statement of employment particulars at the start of his/her employment. This statement may be in the form of job offer letter or any other document signed by the employer and agreed to and signed by the employee as an acceptance to the terms and conditions.

No ILO instrument (i.e., a convention or recommendation) (i.e., a convention or recommendation) particularly mentions that workers may be provided written statement of employment particulars except the ILO Recommendation on Private Employment Agencies (No. 188), which requires that workers hired for third parties, through these employment agencies, must be provided with written employment contracts and particulars. Nonetheless, this is still an employment aspect of employment security and we consider it in our DecentWorkCheck. If a country's law does not require an employer to provide "written statement of particulars to a new employee", it receives a negative score.

Legal Base: Article 5 of the Private Employment Agencies Recommendation, 1997 (No. 188)

Sources: Country Labour Codes, ILO NATLEX Database

2 Hiring fixed term contract workers for permanent tasks

Employment protection measures require that workers on fixed term contracts may not be hired for tasks of permanent nature. Fixed term contracts are those contracts, which are entered into for a specific duration and mention an "expiry" date. If fixed term contracts workers are being hired for permanent tasks, workers are being forced into precarious employment. This aspect is also not clearly mentioned in any ILO instrument (i.e., a convention or recommendation) however it is still relevant to measure decent work. A country that allows hiring fixed term contract workers for tasks of permanent nature receives a negative score, i.e., a sad face. While mentioning national regulations under this indicator, we also mention maximum duration of fixed term contracts including renewals.

Sources: Country Labour Codes, World Bank Doing Business Indicators, Baker & McKenzie "Worldwide Guide to Termination, Employment Discrimination, and Workplace Harassment Laws", ILO Termination of Employment Digest, ILO Employment protection legislation database –EPLex

3 Length of Trial/Probationary Period

Probationary or qualifying period is a period of employment in which an employee's suitability for a particular job is assessed. ILO Convention 158 (on employment termination by employer) requires that "the employment of a worker shall not be terminated unless there is a valid reason for such termination" (Article 4) and 'before he is provided an opportunity to defend himself' (Article 7). However, probationary workers usually don't get these protections and ILO also allows these workers to be excluded. This Convention does not fix a probationary/trial period for employees rather it stipulates that probationary period must be of *reasonable duration* and determined in advance. The reasonableness of probationary period is determined by the nature of the job, time needed to gain required proficiency as well as time to determine an employee's suitability for employment.

Probation period is usually fixed as 90 days however most of the global employment laws require a probationary period of three to six months. A country scores positively only if it has fixed probation period equal to or less than 6 months.

Legal Base: article 2 of the Termination of Employment Convention, 1982 (No. 158)

Sources: Country Labour Codes, ILO NATLEX Database

4 Notice requirements

An employer is required to serve a termination notice before terminating services of an employee. The employer may also opt to pay compensation in lieu of notice. Moreover, an employer is not required to serve termination notice (or pay in lieu of) if the employee is guilty of serious misconduct (Art. 11, Convention 158 of Employment Termination). In order to protect employment, countries' laws should provide for reasonable notice periods in the case of employment termination (and only then they receive a positive score).

Legal Base: article 11 of the Termination of Employment Convention, 1982 (No. 158)

Sources: Country Labour Codes, World Bank Doing Business Indicators, ILO Employment protection legislation database – EPLex, ILO Termination of Employment Digest, Baker & McKenzie "Worldwide Guide to Termination, Employment Discrimination, and Workplace Harassment Laws"

5 Severance Pay

Severance Pay is the amount paid by the employer for terminating employment relationship, regardless of the reason for termination whether it is resignation by the employee or a worker is laid off due to redundancy (except in case of serious misconduct). In the case of employment termination, a worker is entitled to severance allowance or other separation benefits. The amount of these benefits may depend on the length of service and wage level of an employee. This allowance can be paid directly by employer or through a fund constituted by employers' contributions. Article 12 of Convention 158 is relevant here. Countries decide themselves a reasonable amount of severance pay. If a country does not provide severance allowance, it receives negative score. Severance pay is not payable if a worker is dismissed on account of serious misconduct.

Legal Base: article 12 of the Termination of Employment Convention, 1982 (No. 158)

Sources: Country Labour Codes, World Bank Doing Business Indicators, ILO Employment protection legislation database – EPLex, ILO Termination of Employment Digest, Baker & McKenzie "Worldwide Guide to Termination, Employment Discrimination, and Workplace Harassment Laws"

2.4 Combining Work and Life

A. Family Responsibilities

According to ILO Convention 156 on the subject, family responsibilities are responsibilities in relation to dependent children and other immediate family members who need care (sick, elder, infirm). Noting that notion of “family” and “family responsibilities” can take different forms in different cultures and societies, countries are allowed to define who are included under provisions of this convention.

1 Paternity leave

Paternity leave is for the father around the time of birth of a child. Paternity leave is not found in any of the ILO conventions however it is becoming more of a norm in developed countries. Paternity leave is usually of short duration (1 day to two weeks) and is fully paid. A country receives positive score only if it requires employers to provide (paid or unpaid) paternity leave.

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws, World Bank’s “Women, Business and the Law” Database

2 Parental leave

ILO Recommendation 165 (concerning workers with family responsibilities) supports provision of Parental leave. It recommends that after exhausting paternity and maternity leave, either parent should be able to obtain leave of absence, i.e., parental leave for taking care of infant(s). As indicated above, parental leave is different from maternity or paternity leaves and either parent (father or mother) can take this leave. Parental leave is usually of longer duration however paid at lower rates (or sometimes unpaid). Although either parent can take this leave, take-up rate for fathers is much lower than that for mothers.

Legal Base: ILO Recommendation 165

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws, World Bank’s “Women, Business and the Law” Database

3 Flexible working options

ILO Recommendation regarding “Workers with Family Responsibilities” encourages governments to take measures for improving the quality of working life and special measures may be taken aiming at making flexible work arrangements with regard to working schedules, rest periods and holidays. Research has also shown the provision of

flexible work practices (that help workers achieve work-life balance) positively impact job satisfaction, recruitment and retention, working environment and reduced stress, etc.

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws, World Bank's "Women, Business and the Law" Database

B Maternity Protection

Maternity protection allows women to successfully combine their productive and reproductive roles without compromising one at the cost of another. Similarly, it protects women from marginalization/discrimination in the labour market due to their reproductive roles.

Maternity protection, by contributing to the maternal and child health, contributes to the attainment of Millennium Development Goals (MDGs) 4 and 5⁷. Similarly, maternity protection measures safeguard and increase women employment and labour market presence, and ensure income security by providing cash and medical benefits during the period thereby helping in achievement of MDG 1 and 3⁸.

There are different aspects of maternity protection of which maternity leave is only one such aspect. These aspects include health protection measures for pregnant and breast-feeding mothers, maternity leave, leave in case of pregnancy related illness, provision of cash and medical benefits, employment protection and non-discrimination, allowing nursing breaks to breast-feeding mothers.

Convention 183, adopted in year 2000, is the most recent and updated convention on the subject. It expands the scope of maternity protection to virtually all workers and provides for **at least** 14 weeks of paid maternity leave. Moreover, it provides guidance on different aspects of maternity protection. We use above-mentioned aspects of maternity protection as indicators in DecentWorkCheck. Only when a country's law provides benefits that are equal to or higher than those provided under Convention 183, it receives a positive score, i.e., a happy face.

Legal Base: Maternity Protection Convention, 2000 (No. 183), Article 11 of UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

⁷ Goals 4 and 5 relate to reducing child mortality and improving maternal health respectively

⁸ Goal 1 and 3 related to eradicating extreme poverty and hunger and Promote gender equality and empower women respectively

Sources: Country Labour Codes, ILO Database of Conditions of Work and Employment Laws, World Bank's "Women, Business and the Law" Database

2.5 Safe Working Environment

A. Health and Safety at Work

An important aspect of decent work is that it is safe work. Working conditions should be safe and healthy. According to ILO statistics, in every 15 seconds, one worker dies of occupational accident or disease. In these 15 seconds, 160 workers have a work-related accident, often leading to extended absence from work. Apart from the human cost of occupational safety and health failures, economic burden is estimated at 4% of Global GDP.

In a safe and healthy workplace, employers ensure that different chemical, physical and biological substances at workplaces don't pose risk to the health of workers; employers provide adequate protective clothing and equipment to prevent accidents or adverse effects to workers' health; employers have taken measures to deal with emergencies and there are adequate first aid arrangements available; workers co-operate with the employer to create and maintain a safe and healthy workplace; and workers are provided safety training by employers. (Article 16-19, Occupational Safety and Health Convention, 1981, No. 155). A country scores positively if its labour law requires employers to **provide safe and healthy workplace; employer provides workers with free protective equipment and trains them to deal with workplace hazards and emergencies.**

An important mean to maintain safe workplace is the existence **of central and independent labour inspection system.** Labour inspectors inspect a workplace in order to assess risks to healthy and safety of workers from different processes at workplace. While labour inspection is essential for checking enforcement of all labour and employment laws, it is especially relevant in the context of occupational safety and health. The blaze in a garment factory in Karachi (Pakistan) in September 2012 where around 300 workers burnt to death sheds light to the importance of labour inspection. Had labour department carried out inspection and discussed different hazards at work with management, this catastrophe would not have even taken place. A country scores positively if it has established a central and independent labour inspection system.

Legal Base: Occupational Safety and Health Convention, 1981 (No. 155), Labour Inspection Convention, 1947 (No. 81), Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

Sources: Country Labour Codes, ILO NATLEX Database

B. Sickness and Employment Injury Benefits

Paid sick leave is an important aspect of social security (as indicated in various ILO Conventions and UN ICESCR) and comprises of two important components:

- Workers are provided leave from work during illness; and
- There is an income replacement program that replaces workers' earnings that they have lost due to illness/sickness

Paid sick leave protects worker's status and income during the period of sickness or injury by financial and health protection. Paid sick leave has its benefits as it prevents development of serious illness and reduces spreading of disease in workplace. Paid sick leave is usually provided through contributions, pay roll taxes or employers' funds.

Social Security (Minimum Standards) Convention, 1952 (No. 102) requires that workers be provided with a **sickness benefit**, which is equal to 45% of the normal wage rate. This sickness benefit usually starts after a waiting period of three days and must be paid for the first 6 months (26 weeks) of illness. A country scores positively on this indicator if its laws provide for paid sick leave during the first 6 months of illness and a sickness benefit equivalent to 45% of the normal wage rate.

Once a person gets sick, he/she is also in need of **medical care**. ILO Conventions 102 and 130 (Medical Care and Sickness Benefits Convention, 1969) require an employer to provide medical care to the insured/protected persons. Without reference to the cause, whether occupational or non-occupational accidents/disease, all types of contingencies including any morbid condition, pregnancy (and its consequences) and medical care of preventive nature is covered. Medical care is provided to maintain, restore or improve the health of a protected person (worker and his dependents) and his ability to work while attending to his personal needs as well. Under medical care, a protected person enjoys following benefits in the case of illness: preventive care; general practitioner care including home visits, specialist care, hospitalization, pharmaceutical supplies and pregnancy related care. Countries may impose a reasonable qualification period for affording medical care. Workers may also have to share the cost and countries may limit the duration of care benefits to 6 months (26 weeks). A country scores positively when its labour laws provide for medical care, at least for the first 6 months of illness.

While a sick worker is provided paid sick leave and medical care during the first 6 months

of his/her illness, it is incidental to these provisions that he may not be fired during these months and his **employment must be secure for the first 6 months of his illness**. Article 6 of Convention 158 considers termination of a worker on the ground of temporary absence from work due to illness or injury as unfair termination. If a country's law does not provide for employment security during the first 6 months of illness, that country's score decreases.

Employment or Work Injury is any morbid condition, incapacity for work, invalidity or loss of a faculty due to a work-connected accident or an occupational disease. Countries define themselves as to what constitutes "industrial accident" and "occupational disease" in their relevant country contexts. Employment Injury benefit is the oldest type of income replacement program. It also includes survivors' benefits in the case of a fatal accident leading to the death of a secured/insured worker. Employment Injury benefit programs include short term (temporary disability) and long term benefits (partial and total permanent disability) and survivors' benefits (dependent on the age of survivors). Employment injury benefit includes medical care services and cash benefits. Convention 102 requires that in the event of employment injury, workers be provided with periodic payments, corresponding to at least 50% of the reference wage in cases of incapacity for work (temporary or permanent disability). In the case of fatal accident, survivors are to be paid periodically at least 40% of the reference wage. These benefits can also be paid in lump-sum. There is usually no qualifying period for employment injury and survivors' benefits. These benefits, if paid periodically, are granted throughout the contingency (e.g., until a temporary disability persists or a disabled worker dies or a survivor beneficiary dies). A country scores positively only when the employment injury benefit is at least 50% of the reference wage.

Legal Base: Social Security (Minimum Standards) Convention, 1952 (No. 102)

Sources: Country Labour Codes, ILO NATLEX Database, ISSA Social Security Programmes throughout the World

2.6 Social Security

Social security is defined by ILO as "the protection which society provides for its members against the economic and social distress that otherwise would be caused by the stoppage or substantial reduction of earnings resulting from sickness, maternity, employment injury, unemployment, invalidity, old age and death; the provision of medical care; and the provision of subsidies for families with children". Social security measures that provide cash benefits in order to replace lost income in the event of old-age, invalidity, death of a worker or unemployment are called income maintenance

programs and are our focus of attention here. These income maintenance programs can come in three forms; namely, employment related, means tested or universal programs. However, we consider only employment related programs in DecentWorkCheck. Old Age, Invalidity (disability due to a non-occupational disease/accident) and Survivors' benefits cover long-term risks and provide benefits for a longer duration, usually for life, quite opposite to the employment injury and sickness benefits which are comparatively of shorter duration.

Old-age pension/benefits are payable only once a worker has reached a statutory retirement age. Countries also specify various qualifying conditions (minimum years of employment, minimum years of contribution, etc.). Here again, we use provisions in the ILO Convention 102 as our criterion. Old- age benefit/pension, granted as periodic payment, must at least be 40% of the reference wage. Minimum age for pension may not be set higher than 65 years. However, keeping in view the higher life expectancy and working ability of individuals, countries may set higher pensionable age. In the wake of current economic crisis gripping the Eurozone, most of the countries have raised retirement age, which is now above 60 or even 65. **Invalidity benefit** is a long-term benefit payable in the case of partial or total permanent disability resulting from non-occupational injury/accident or disease prior to reaching the standard pensionable age. Provisions for invalidity benefit are quite similar (i.e. 40% of the reference wage) to those granted under old-age pensions and survivors' benefits.

In the case of death of a breadwinner, dependents (widow/er and children) of a worker are afforded survivors' benefits in order to cover the loss of support. **Survivors' benefits** are paid as a percentage of the benefit granted to the deceased at death or the benefit to which worker would have been entitled to had he reached the pensionable age. Lifetime benefits are payable to widows who have children, have a disability or above a specific age. Survivors' benefits for children are payable only until a child reaches the age of 15 years or school leaving age (whichever is higher/ comes later).

Unemployment benefit is provided to compensate for the loss of earnings resulting from involuntary unemployment. An unemployed becomes eligible for unemployment benefit if he is capable of work and is actively seeking work. If a worker rejects suitable employment, this benefit may be suspended. Convention 102 requires that periodic payments under this benefit must at least be 45% of the reference wage. If a country does not provides unemployment or the gross replacement rate is lesser than 45%, it gets a negative score.

Pension, invalidity benefit and survivors' benefit are calculated on the basis of a worker's previous earnings or wages of a skilled manual male employee (referred to as the

"reference wage).

Legal Base: Social Security (Minimum Standards) Convention, 1952 (No. 102), Universal Declaration of Human Rights (Article 22, 25), ICESCR (Article 9) and CEDAW (article 11)
Sources: Country Labour Codes, ILO NATLEX Database, ISSA Social Security Programmes Throughout the World

2.7 Equal Treatment at work

1 Equal pay for work of equal value

Equal remuneration for all workers, referring to the rates of remuneration without discrimination on the basis of gender and any other discriminatory grounds as mentioned under *Equal treatment in employment*, is the fundamental requirement for promoting non-discrimination at the workplace. Equal pay is the first step in providing a level playing field for women workers. Violation of the principle of "equal pay for work of equal value" widens the currently existing gender, racial and geo-demographic pay gaps.

This gap exists when men and women receive different amount of money for work of equal or comparable value. The gender pay gap of roughly 18% percent means that women workers earn that much less per hour than their male counterparts. Gender pay gap is both cause and consequence of gender inequality. Equal remuneration is a fundamental right for all workers. A country receives positive score only when its constitution or labour code has relevant provision on respecting the right to equal remuneration for work of equal value.

Legal Base: Equal Remuneration Convention, 1951 (No. 100), Universal Declaration of Human Rights (Article 23), ICESCR (Article 7), CEDAW (Article 11)
Sources: Country Constitutions, Country Labour Codes, ILO NATLEX Database, World Bank's "Women, Business and the Law" Database

2 Sexual Harassment Legislation

Sexual harassment involves unwanted or unwelcome behavior, which can offend, humiliate and intimidate a person while creating a hostile working environment.

Sexual harassment includes but is not limited to unwelcome sexual advances, verbal harassment or abuse, request for sexual favors, physical conduct or sexually demeaning attitude.

Any of the above mentioned acts is included in harassment, if it is unwelcomed and is causing interference in work performance or creating a hostile working environment or the harasser attempts to punish the complainant for refusal to comply with his/her requests and makes sexual favors a condition of employment. A country scores

positively only when labour code or other employment related laws include a provision to prevent and penalize sexual harassment at the workplace.

Legal Base: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
Sources: Country Constitutions, Country Labour Codes, ILO NATLEX Database, World Bank's "Women, Business and the Law" Database

3 Occupational segregation

Occupational sex segregation is the phenomenon where men and women are concentrated in stereotypical types of work and different level of economic activity. Occupational segregation has two main types; vertical segregation where women are engaged in lower grades of work and horizontal segregation where women are limited to a narrower and smaller group of low paying occupations like education and health. Occupational segregation is also interlinked with the idea of equal pay for equal work and gender pay gap. Occupational sex segregation as a form of discrimination is also recognized in Convention on Discrimination (Employment and Occupation), 1958 (No. 111). We check occupational segregation by asking the question whether women can work in the same industries as men. If a labour code places restrictions on working of women in certain industries (restriction on working of pregnant women and working mothers in certain industries are not considered), that country receives a negative score.

Legal Base: Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
Sources: Country Constitutions, Country Labour Codes, ILO NATLEX Database, World Bank's "Women, Business and the Law" Database

4 Equal treatment in employment

The objectives of equal pay for equal value and occupational desegregation can be achieved only when men and women are treated equally in all aspects of employment. ILO Convention on Discrimination in employment and occupation defines discrimination as "any distinction, exclusion or preference made on the basis of *race, colour, sex, religion, political opinion, national extraction or social origin*, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation". Other prohibited grounds for discrimination, as provided under ILO Conventions 87, 98, 156, 158, 159, 162 and 183, include "*Age, HIV/AIDS status, disability, family/marital status (family responsibilities), trade union membership and related activities*". A country's labour code is juxtaposed against different grounds of discrimination and receives positive or negative score respectively. If a country receives negative score in 5 of the 11 grounds, a composite negative score is given to the country.

Legal Base: Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Universal Declaration Of Human Rights (article 2), CEDAW (article 11), Convention on the Rights of Persons with Disabilities (article 27)

Sources: Country Constitutions, Country Labour Codes, ILO NATLEX Database, World Bank's "Women, Business and the Law" Database

2.8 Children at Work

1 Minimum age for employment

According to ILO, Child Labour is defined as work that has the potential to deprive children of their childhood, their dignity and is also harmful for their physical, moral and mental development and it interferes with their education (either by not allowing them to attend school, leaving school prematurely i.e., without compulsory education or forcing them to combine school attendance with heavy work.). So, the question arises as to how should we differentiate between child labour and child work? This, according to ILO, depends upon age of the child, type and hours of work performed, working conditions as well as the development stage of individual countries. ILO Convention on Minimum Age requires that general minimum wage should not be less than compulsory school leaving age or 15 years, whichever age is higher. However, developing countries may initially set the lower minimum age of 14 years (12 years in case of light work).⁹

A country receives a negative score if its constitution or labour code sets minimum age lower than 15 years (14 years for developing countries).

Legal Base: Article 2 of Minimum Age Convention, 1973 (No. 138), Article 32 of the Convention on Rights of Child

Sources: Country Constitutions, Labour Codes, ILO NATLEX Database

2 Minimum age for hazardous work

According to ILO Convention 138, "any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons" is considered hazardous work. Another core ILO Convention on child labour (No. 182) considers hazardous work as one of worst forms of child labour. A child over the age of 15 years (or 14 years in a developing country case) but less than 18 years is called "young person/worker or adolescent". Minimum age for hazardous work is set at 18 years however under certain conditions, this may be lowered to 16

⁹ For a classification of countries by income level, please follow this World Bank link.

http://data.worldbank.org/about/country-classifications/country-and-lending-groups#Low_income

years (only for developing countries under strict conditions). A young person can't be allowed to engage in hazardous work activity (night work is prohibited for young workers). A country receives positive score if minimum age for hazardous work is set as 18 years or higher.

Legal Base: Article 3 of Minimum Age Convention, 1973 (No. 138), Article 32 of the Convention on Rights of Child

Sources: Country Constitutions, Labour Codes, ILO NATLEX Database

2.9 **Forced labour**

According to ILO, **Forced labour** is any type of work or kind of service in which someone engages involuntarily and under some implied coercion or a manifest threat of penalty or oppressive measure. Bonded Labour (which is a special type of Forced Labour) exists mainly in Asian and agricultural societies. Actually this type of labour mostly exists in cases where monetary/financial deals occur such as loans, which if the debtor is unable to pay, he has to serve the creditor for some specified or unspecified term.

Forced or Compulsory labour does not include "compulsory military service, work performed in execution of a sentence awarded by a court of law, community service, work in emergency situation, etc". Forced labour is a punishable penal offence. ILO Convention 105 requires states to take steps to suppress use of forced labour: as a means of political coercion; for purposes of economic development; as a means of all types of discrimination; or as a punishment for participation in strike. A country receives positive score for this indicator if its constitution and labour code prohibit forced/compulsory labour and declare it a penal offence.

Workers, like employers, must be able to **sever the employment relationship by serving a reasonable notice**, as determined in labour code or collective agreements. Labour Code must have provision regarding contract termination by a worker after serving due notice.

Limit to maximum hours has already been dealt with under decent hours topic. If a country's labour code (collective agreements) allows working more than 56 hours in a week, this is quite akin to forced labour and the country receives a negative score.

Legal Base: Forced Labour Convention, 1930 (No. 29), Article 8 of the International Covenant On Civil And Political Rights

Sources: Country Constitutions, Labour Codes, ILO NATLEX Database

2.10 Social Dialogue/Trade Unions

Freedom of association and the right to bargain collectively are fundamental rights. These are the enabling rights and all other aspects of decent work namely abolition of forced labour and child labour, equality at work are attained only once workers have been granted these rights. Right to form and join associations is integral to democracy and is crucial to realize decent work. Workers, without distinction, have the right to form and join a union without previous authorization. Moreover, both workers and employers have the right to join federations and confederations, which have the right to affiliate with international organizations. Freedom of Association principle is applicable not only to the workers in the private sector but also to civil servants and other public sector workers. Public sector employees (with the exception of police and armed forces, as provided in article 9 of ILO Convention 87) have the right to form and join associations/unions of their own choice without any previous authorization. We use ILO CFA and CECACR reports to see whether country's collective relations law is consistent with ILO provisions on freedom of association and give a positive or negative score. A country receives positive score only if their constitution allows freedom of association and its labour law provides for the right to form and join association with very limited exclusions.

Workers have the **right to organize and bargain collectively** with their employers in order to improve their working conditions. Collective bargaining is the voluntary negotiation between workers' and employers' organizations to regulate the employment terms and condition through collective agreement. It engages both employers' and workers' organizations to collectively address socio-economic concerns and promotes a peaceful working environment. Collective bargaining and freedom of association are interlinked rights. Collective bargaining and social dialogue can't be achieved without independent workers' and employers' organizations. A country receives positive score if it allows collective bargaining between employer and worker organization without any interference from government.

Right to strike, though not specifically mentioned in ILO Conventions, is recognized by international labour standards however this is usually restricted in law and practice throughout the world. It is one of the essential means employed by workers to promote and defend their social and economic interests. Right to strike is incidental to the right to organize and bargain collectively. Strikes can take many forms, namely the strike on socio-economic issues relating to the workplace, political strikes (protesting against government's policies), sympathy strikes, etc. A country scores negatively if there are outright prohibitions on strikes; legal requirements preventing the use of this right;

restrictions on strikes in sectors which are not essential in nature; restrictions on strikes by public servants (civil servants who exercise authority in the name of the state are excluded); and provisions on introduction of compulsory arbitration exist before industrial action has even started.

Legal Base: Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Universal Declaration Of Human Rights (article 20), ICESCR (article 8) Article 22 of the International Covenant On Civil And Political Rights,

Sources: Country Constitutions, Labour Codes, ILO NATLEX Database

Check

DecentWorkCheck Pakistan is a product of WageIndicator.org and
www.paycheck.pk



means National regulation is OK



means National regulation is not OK

01/12	Work and Wages	NR	YES	NO
1	I earn at least Rs. 9,000 per month <i>(for workers in Punjab, KPK and Balochistan)</i> I earn at least Rs. 8,000 per month <i>(for workers in Sindh and ICT)</i>		<input type="checkbox"/>	<input type="checkbox"/>
2	I get my pay on a regular basis. <i>(On daily, weekly, fortnightly or monthly basis)</i>		<input type="checkbox"/>	<input type="checkbox"/>
3	Whenever I work overtime, I always get compensation <i>(Overtime rate is fixed at a higher rate by if your work over 48 hours a week)</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"/>
02/12	Annual Leave and Working on Holidays	NR	YES	NO
5	How many weeks of paid annual leave are you entitled to?*		1 week <input type="checkbox"/> 2 weeks <input type="checkbox"/> 3 weeks <input type="checkbox"/> 4 weeks + <input type="checkbox"/>	
	<i>Your entitlement is 14 days paid annual leave on completion of 12 months of continuous service.</i>			
6	I get paid during public (national and religious) holidays		<input type="checkbox"/>	<input type="checkbox"/>
7	I get a weekly rest period of at least one day (i.e. 24 hours) in a week		<input type="checkbox"/>	<input type="checkbox"/>
8	I get compensatory holiday when I have to work on a public holiday or weekly rest day		<input type="checkbox"/>	<input type="checkbox"/>
9	Whenever I work on a weekly rest day or public holiday, I get due compensation for it		<input type="checkbox"/>	<input type="checkbox"/>
03/12	Employment Security	NR	YES	NO
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 3 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>Redundancy pay is provided in the case of economic dismissals only. It is equal to 20 days wages for each year of service.</i>		<input type="checkbox"/>	<input type="checkbox"/>
04/12	Family Responsibilities - If applicable	NR	YES	NO
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"/>

* On question 5, only 3 or 4 working weeks is equivalent to 1 "YES".

05/12 Maternity at Work - If applicable

	NR	YES	NO
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"/>

06/12 Health and Safety at Workplace

	NR	YES	NO
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"/>

07/12 Sickness & Employment Injury Benefits

	NR	YES	NO
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 <i>My disability benefit is at least 60% of my wage.</i>		<input type="checkbox"/>	<input type="checkbox"/>

08/12 Social Security

	NR	YES	NO
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 non-occupational sickness, injury or accident		<input type="checkbox"/>	<input type="checkbox"/>

09/12 Fair Treatment at Work

	NR	YES	NO
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"/>
i Sex/gender		<input type="checkbox"/>	<input type="checkbox"/>
ii Race		<input type="checkbox"/>	<input type="checkbox"/>
iii Colour		<input type="checkbox"/>	<input type="checkbox"/>
iv Religion		<input type="checkbox"/>	<input type="checkbox"/>
v Political Opining		<input type="checkbox"/>	<input type="checkbox"/>
vi Nationality/Place of Birth		<input type="checkbox"/>	<input type="checkbox"/>
vii Social Origin/Caste		<input type="checkbox"/>	<input type="checkbox"/>
viii Family responsibilities/family status		<input type="checkbox"/>	<input type="checkbox"/>
ix Age		<input type="checkbox"/>	<input type="checkbox"/>
x Disability/HIV-AIDS		<input type="checkbox"/>	<input type="checkbox"/>
xi Trade union membership and related activities		<input type="checkbox"/>	<input type="checkbox"/>
40 I, as a woman, can work in the same industries as men <i>without any stereotyping on the basis of gender</i>		<input type="checkbox"/>	<input type="checkbox"/>

10/12 Children at Work

	NR	YES	NO
41 In my workplace, children under 14 are forbidden <i>Minimum age for employment is 14 years.</i>		<input type="checkbox"/>	<input type="checkbox"/>
42 In my workplace, children under 18 are forbidden for hazardous work <i>Minimum age for employment in hazardous work is still 14 years</i>		<input type="checkbox"/>	<input type="checkbox"/>

11/12 Forced Labour

	NR	YES	NO
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 When I work overtime, I work only 8 hours overtime in a week and with due overtime compensation		<input type="checkbox"/>	<input type="checkbox"/>

12/12 Trade Union Rights

	NR	YES	NO
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"/>

* For a composite positive score on question 40, you must have answered "yes" to at least 6 of the choices.

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 .

Pakistan scores 34 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 www.paycheck.pk/main/contact-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 - 50

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.

01/12 Work and Wages

Regulations on work and wages:

Factories Act, 1934

The Payment of Wages Act, 1936

Minimum Wages Ordinance, 1961

West Pakistan Minimum Wages for Unskilled Workers Ordinance, 1969

Minimum Wage

The minimum wage rate for unskilled workers is Rs.9,000 in the provinces of Punjab, Khyber Pakhtunkhwa and Balochistan while in the Sindh province and federal area, this wage is Rs. 8,000 per month. Minimum wages for semi-skilled and skilled workers are determined by the Minimum Wage Boards constituted under the Minimum Wages Ordinance, 1961.

Regular Pay

The Payment of Wages Act, 1936 regulates the payment of wages to all classes of workers. Section 4 of the Act stipulates that wage period shall not exceed one month. Section 5 of the Act says that wages are to be paid within seven days after the last day of wage period except in establishments employing 1000 or more persons which are allowed to pay within 10 days.

Overtime Compensation

In accordance with the section 47 of Factories Act, 1934; if a worker works beyond the stipulated working hours, i.e., 9 hours a day and 48 hours a week, he is entitled to an overtime pay that is double the rate of his ordinary pay (200% of the normal wage rate). In seasonal factories, workers may work up to 40 hours a week.

Night Work Compensation

There is no special pay premium for employees working over night.

02/12 Annual Leave and Working on Weekly and Public Holidays

Regulations on work and holidays:

Factories Act, 1934

The West Pakistan Shops and Establishments Ordinance, 1969

Paid Vacation/Annual Leave

An employee is entitled to 14 days paid annual leave, after completion of 12 months of continuous service. (section 49-B of Factories Act). This law does not indicate whether paid annual leave increases with longer service.

Pay on Public Holidays

Workers are entitled to paid leave during Festival (public and religious) holidays. Festival holidays are announced by Ministry of Interior, Islamabad and Provincial Government at the start of calendar year (usually 14 in number)

Weekly Rest Day

Workers are entitled to 1 day of rest per week (24 consecutive hours). The weekly rest day is usually Sunday. If a worker has to work on your holiday; he can't be made to work consecutively for 10 days without being given a compensatory holiday for full one day. (section 35)

Compensatory Holidays/rest days

Workers can be asked to work on weekly rest days and Festival/Public Holidays. The law does provides for compensatory holidays. (Section 35, 49-I)

Weekend/Public Holiday Work Compensation

If workers have to work on a weekly rest day, they are entitled to 200% of the normal rate of wages. If an employee works on a public holiday, he is paid at 300% of the rate of his normal wages. (normal wage for working on public holiday + paid substitute holiday + one day's paid compensatory holiday)

03/12 Employment Security

Regulations on employment conditions

The West Pakistan Shops and Establishments Ordinance, 1969

Industrial And Commercial Employment (Standing Orders) Ordinance, 1968

Written Employment Particulars

Standing Orders Ordinance requires that every workman at the time of his appointment, transfer or promotion should be provided with an order in writing, showing the terms and conditions of his service.

Fixed Term Contracts

Pakistani labour Law prohibits hiring fixed term contract workers for tasks of permanent nature.

Probation Period

In accordance with the Standing Orders Ordinance, probation period is of 3 months duration only.

Notice Requirement

labour law requires termination notice before terminating services of an employee. A permanent employee may be terminated after serving one month's notice or paying in lieu of notice.

Severance Pay

There is a provision in the law regarding severance/redundancy pay however it is not provided when a worker is terminated on the ground of misconduct. only in the case of economic dismissals. A worker is entitled to severance payment amounting to 20 days' wages for each completed year of service.

04/12 Family Responsibilities

Regulations regarding workers with family responsibilities

Factories Act, 1934

The West Pakistan Shops and Establishments Ordinance, 1969

Paternity Leave

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

Parental Leave

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

Flexible work option for workers with minor children and other family responsibilities

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

05/12 Maternity and Work

Regulations on maternity and work:

The West Pakistan Maternity Benefit Ordinance, 1958

The Mines Maternity Benefit Act, 1941

The Provincial Employees Social Security Ordinance, 1965

Free Medical Care

In accordance with section 38 of The Provincial Employees Social Security Ordinance, 1965, a woman is entitled to prenatal confinement and post-natal medical care, if she is entitled to maternity benefit under section 36.

No Harmful Work

Employment of women is prohibited during six weeks following the delivery of child. (section 3 of West Pakistan Maternity Benefit Ordinance, 1958). There are gender neutral provisions in the laws to ensure safety of workers however none of these specifically mentions pregnant and breast feeding women enjoy special protection and are not made to do any harmful work.

05/12 Maternity and Work*(from back page)***Regulations on maternity and work:**

The West Pakistan Maternity Benefit Ordinance, 1958
The Mines Maternity Benefit Act, 1941
The Provincial Employees Social Security Ordinance, 1965

Maternity Leave

Female employees are entitled to a maximum of twelve weeks (or 3 months) of maternity leave with full pay. (Section 4 of West Pakistan Maternity Benefit Ordinance, 1958). The maternity leave in public sector is also 90 days (3 months) and during this time, wages are paid in full.

Income

The maternity leave is awarded with full pay.

Protection from Dismissals

It is illegal for an employer to dismiss a female employee during the term of her maternity leave.

Right to return to same position

Employers are prohibited from dismissing, discharging or reducing an employee during the period in which she is in receipt of maternity benefit (also includes sickness benefit, injury benefit or medical care). So, a female worker has the right to return to same job

Nursing Breaks for Working Mothers

No provisions could be located in the law requiring employers to provide nursing breaks for new mothers.

06/12 Health and Safety at Work**Regulations on health and work:**

Factories Act, 1934
Mines Act 1923
Workmen's Compensation Act, 1923
Dock Labourers Act, 1934

Employer cares

Chapter 3 of Factories Act makes it obligatory on the employer to provide for safe and healthy working environment.

Free protection

No specific provision in the laws on provision of clothing, however Labour Protection Policy 2006 directs the enterprises to provide workers with protective clothing and equipment. In the same way, Factories Act 1934 (section 23-A) provides for compulsory vaccination and inoculation of workers and expenses are to be borne by employer

Training

In accordance with the Factories 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

labour laws provides for an independent labour inspection system in the country. However, the inspection system is province based and there is no central inspection authority.

07/12 Work and Sickness**Regulations on Work and Sickness:**

The Provincial Employees Social Security Ordinance, 1965

The West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968

Workmen Compensation Act, 1923

Paid Sick Leave

Every secured worker certified by a medical practitioner is entitled to paid sick leave (sickness benefit) for a period of 121 days (in a calendar year) in case of ordinary ailments and 365 days (in a calendar year) in case of Cancer or Tuberculosis. The sickness benefit for ordinary ailments (for a period of 121 days) requires the employer to pay 75% of wages last drawn while for Cancer and Tuberculosis (for a period of 365 days), a worker has to be paid 100% of last wages drawn. If there is an employment related injury, a worker has the right to draw 100% wages for a period of 180 days.

Job security during Illness

As per section 72 of The Provincial Employees Social Security Ordinance, 1965, an employer can't dismiss a worker during his/her period of sickness, maternity, injury or medical care.

Medical Care

Medical benefits are available for insured workers and these include general medical care, specialist care, medicine, hospitalization, maternity care, and transportation.

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 75% of an insured worker's average earnings in the 12 months before disability (this amount is 100% of the previous average wage in Punjab).

In the case of permanent partial disability, amount of compensation depends on the assessed degree of disability. Partially disabled workers are paid up to 66% of total disability benefit in accordance with a schedule provided in above law.

In the case of temporary disability, 60% (100% in Punjab) of the average wage is paid after a waiting period of 3 days up to 180 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) receive survivors' benefit. A widow gets 60% of the monthly pension a deceased worker received or was entitled to receive. A needy and disabled widower is also entitled to benefit. Minor children and parents are also entitled to benefits

08/12 Social Security**Regulations on social security:**

Provincial Employees Social Security Ordinance, 1965

Employees Old Age Benefits Act, 1976

Pension Rights

Above laws provide for both full and partial pension. For full pension, a worker must have attained 60 years of age (55 years for women) with at least 15 years of contributions. A reduced pension is paid from ages 55 to 59 (men) or ages 50 to 54 (women). If a worker does not meet requirements of full or partial pension, there is also an old-age grant. The minimum monthly pension from EOBI is Rs. 3,600 per month.

Dependent's/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. 100% of the deceased minimum pension, i.e., Rs. 3,600 is distributed equally among deceased's spouses. If spouses are not alive, this is distributed among orphans. In the absence of spouse and orphans, deceased's parents are paid this pension up to 5 years after the death of a worker.

08/12 Social Security*(from back page)***Regulations on social security:**

Provincial Employees Social Security Ordinance, 1965
 Employees Old Age Benefits Act, 1976

Unemployment Benefit

No provision in law for unemployment insurance and benefits.

Invalidity Benefit

The above acts provide for invalidity benefit in the case of non-occupational accident/injury/disease resulting into permanent invalidity. If a worker is assessed with 67% loss in earning capacity, he/she is paid 2% of the average monthly earnings in the last 12 months multiplied by the number of years of covered employment. Minimum invalidity pension is also Rs. 3,600.

09/12 Fair Treatment at Work**Regulations on fair treatment at work:**

The Constitution of Pakistan, 1973 (amended in 2010)
 West Pakistan Minimum Wage Rules, 1962

Equal pay

In accordance with the art. 15 of the West Pakistan Minimum Wage Rules, 1962, the principle of equal remuneration for work of equal value between men and women workers will be applied while fixing wages.

Sexual Harassment at Workplace

In accordance with the Protection Against Harassment of Women at Workplace Act, 2010, sexual harassment of workers is prohibited by law and is a punishable offence. A person convicted of sexually harassment convict can be imprisoned for a maximum term of 3 years, or fined with a maximum sum of PKR 5 Lakh (0.5 million) or with both.

Non-discrimination

In accordance with the article 27 of the Constitution, "No citizen otherwise qualified for appointment in the service of Pakistan shall be discriminated against in respect of any such appointment on the ground only of race, religion, caste, sex, residence or place of birth". This article is only about the public sector jobs. We can't locate similar provision for non-discrimination in private sector employment.

Right to Work

Women can't work in the same industries as men (Factories Act, 1934). Moreover, Constitution also provides for gender based occupational segregation by saying that " specified posts or services may be reserved for members of either sex if such posts or services entail the performance of duties and functions which cannot be adequately performed by members of the other sex".

10/12 Children at Work**Regulations on children at work:**

Constitution of Pakistan, 1973 (amended in 2010)
 Employment of Children Act, 1991

Children under 15

Article 11.3 of the Constitution of Islamic Republic of Pakistan says " No child below the age of fourteen years shall be engaged in any factory or mine or any other hazardous employment." Similar safeguards have been provided in Article 37. Section 50 of Factories Act 1934 reads as under: "Prohibition of employment of young children. - No child who has not completed his fourteenth year shall be allowed to work in any factory."

The children under the age of 14 years cannot be employed in any public or private industrial undertaking containing process dangerous to life, health or moral of children under the provisions of the said laws. The Employment of Children Act, 1991 has provided a schedule of hazardous occupation and processes where the employment of children under the age of 14 years is totally prohibited. The child worker is, however, permitted to work as a member of the family engaged in any process not declared hazardous under Section 3 of the said Act.

Minimum Age for Hazardous Work

The Employment of Children Act 1991 prescribes 4 occupations and 34 processes wherein employment of children (under the age of 14) is prohibited. It does not set a higher minimum age for hazardous work.

11/12 Forced/Bonded Labour

Regulations on forced labour:

Constitution of Pakistan, 1973 (amended in 2010)

The Bonded Labour System (Abolition) Act, 1992

Forced labour

Article 11 of the Constitution prohibits all forms of forced labour. The Bonded Labour System (Abolition) Act, 1991 provides for the abolition of bonded labour system in the country. The practice of bonded labour has become a punishable offence after enactment of this act (with imprisonment for a term which shall not be less than two years nor more than five years, or with fine which shall not be less than fifty thousand rupees, or with both). Vigilance Committees are formed at the district level to keep an eye on the working of law and help in rehabilitation of freed bonded labour.

Freedom to change jobs and Right to quit

Workers have the right to change jobs after serving due notice on their employer.

12/12 Trade Union Rights

Regulations on trade unions:

Constitution of Pakistan, 1973 (amended in 2010)

Industrial Relations Act, 2012

Freedom to join a union

Constitution and labour law provide for freedom of association and allow workers and employers to join and form unions. Section 3 of Industrial Relations Act 2012). Constitution also supports freedom of association, subject to any reasonable restrictions imposed by law in the interest of sovereignty or integrity of Pakistan, public order or morality (art. 17). IRA 2012 includes many exclusions which in effect deprive workers of the right to form and join unions.

Freedom of collective bargaining

IRA 2012 (section 19 onwards) allows employees to bargain collectively through their representatives.

Right to strike

Right to strike is not considered as fundamental right. Moreover, go-slow actions are considered an unfair labour practice, strikes longer than 30 days can be prohibited by government order, and a party or the government can unilaterally compel arbitration, undermining the right to strike.

01/12 Work and Wages**ILO Conventions on work and wages:**

Minimum wage: Convention 131 (1970)

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

Compensation overtime: Convention 01 (1919)

Pakistan has ratified Convention 001.

Minimum wage

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.

Regular pay

Wages must be paid regularly.

Overtime compensation

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.

02/12 Annual Leave and Working on weekly and Public Holidays**ILO Conventions in weekly rest days and paid annual leave**

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.

Pakistan has ratified conventions 14 and 106.

Paid holiday

An employee is entitled to at least 21 consecutive 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.

Pay on Public holidays

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

Weekly Rest Day

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

Compensatory holidays

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

Weekend/Public Holiday work compensation

If you have to work during the weekend, you 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 you have to work on a public holiday, you 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 your right to a holiday/rest day.

03/12 Employment Security**ILO Convention on employment termination**

Convention 158 (1982) on employment termination

Convention 158 is not ratified by Pakistan

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.

Written Employment Particulars

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 Contracts for Permanent Tasks

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

Probation Period

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

Notice Requirement

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

Severance Pay

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)

04/12 Family Responsibilities**ILO Conventions on family responsibilities:**

Convention 156: Workers with Family Responsibilities Convention (1981).

Recommendation 165: Workers with Family Responsibilities (1981)

Convention 156 is not ratified by Pakistan.**Paternity Leave**

This is for the new fathers around the time of child birth and is usually of shorter duration.

Parental Leave

The accompanying recommendation (No. 165) to ILO Convention on Family Responsibilities 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.

Work-Life Balance

Recommendation 165 asks for looking into measures for improving general working conditions through flexible work arrangements.

05/12 Maternity at Work

ILO Conventions on maternity and work:

An earlier Convention (103 from 1952) prescribed at least 12 weeks maternity leave, 6 weeks before and 6 weeks after. 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.

Pakistan has not ratified any of above Conventions.

Free medical care

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

No harmful work

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

Maternity leave

Your maternity leave should last at least 14 weeks.

Income

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

Protection from Dismissals

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

Right to

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

Breast Feeding Breaks

After child birth and your rejoining your organization, you must be allowed paid nursing breaks for breast-feeding your child.

06/12 Health and Safety at Work

ILO conventions on health and safety at work:

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)

Pakistan has ratified only convention 081.

Employer cares

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

Free protection

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

Training

You and your colleagues should receive training in all work related safety and health aspects and you should have been shown the emergency exits.

labour Inspection System

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

07/12 | Work and Sickness

ILO conventions on Sickness and Employment Injury:

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

Pakistan has not ratified any of the above mentioned conventions.

Income when sick

Your 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.

Minimum income

Minimally you 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). You should be entitled to paid sick leave.

Job security

During the first 6 months of your illness, you should not be fired.

Disability benefit

Whenever you are disabled due to an occupational disease or accident, you ought to 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.

08/12 | Social Security

ILO Conventions on social security:

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).

Pakistan has not ratified any of above mentioned Conventions.

Pension Rights

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.

Dependent's Benefit

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.

Unemployment Benefit

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.

Medical Care

Employees and their family members should have access to the necessary minimal medical care at an affordable cost.

Invalidity Benefit

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.

09/12 Fair Treatment at Work**ILO Conventions on fair treatment at work:**

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

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

Pakistan has ratified both Conventions.

Equal Pay

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.

Sexual Harassment

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

Non-Discrimination

Your 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)

Right to work

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

10/12 Children at Work**ILO Conventions about working children:**

Minimum Age: Convention 138 (1973)

Worst Forms of Child labour: Convention 182 (1999)

Pakistan has ratified these Conventions.

Children under 15

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

Hazardous Work

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.

11/12 Forced Labour

ILO Conventions on Forced/Bonded labour:

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.

Pakistan has ratified both Conventions 29 and 105.

Prohibition on Forced and Compulsory labour

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

Freedom to change jobs

Employers have to allow you to look for work elsewhere. If you do, you should not be shortened on wages or threatened with dismissal. (In the reverse cases, international law considers this as forced labour).

12/12 Trade Union Rights

ILO Conventions on trade union rights:

Freedom of association and protection of the right to organize: Convention 87 (1948)

Right to Organize and Collective Bargaining: Convention 98 (1949)

Pakistan has ratified both Conventions 87 and 98.

Trade union at work and Collective Bargaining

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).

Freedom to join and form a union

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.

Right to strike

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.

About Decent Work and Decent Work Check

Compare your own situation with the international labour standards and how they are applied in Pakistan. At the end of the checklist you will see how things stand for you. You may be better off than what the international standards prescribe, but you should not be worse off. Behind every answer, you can find a short explanation of what your rights are; nationally and internationally. So you see right away if you can improve your situation.

The Decent Work Check makes the pretty abstract Conventions and legal texts tangible. Because, in the end, you want to know what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong. The Decent Work Check employs double comparison system. It first compares national laws with international labour standards and gives a score to the national situation (happy or sad face). It allows workers to compare their real situation with national regulations in the country. Workers then compare their own score both at national and international levels. The Decent Work Check is based on de jure labour provisions, as found in the labour legislation. The real practice is informed by the employees themselves. This Check is different from other indices like World Bank's Doing Business Indicators or even ISSA's Social Security Programs throughout the World as it is not only descriptive in nature (bereft of any subjective opinions) but also that it covers a lot of different variables. The Revised Decent Work Check is also designed while taking into account upcoming Decent Work Indicators. While Decent Work Indicators focus more on statistics, our priority is informing workers about their rights through this Decent Work Check. 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 labour inspectors don't even know 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). As soon as you complete the DecentWorkCheck, you see which issues need improvement in your work life.

This is exactly the strategy chosen in the debates in many WageIndicator countries. In the debates with roughly 20-30 people around the table from all sides, the decent Work Check has soon the effect of a mini social dialogue. The people who run the dialogue are equally well informed.

The international labour standards are laid down in ILO-Conventions. ILO is the specialised body of the United Nations working on labour issues and was founded in 1919. In the ILO, negotiations are always going on between governments of the member states, national trade unions and employers associations regarding work related issues like rights at work and social protection. These negotiations may take years, but eventually lead to so called Conventions or Recommendations. In Conventions, minimum standards are laid down. Conventions are not the law, but the intention is that member states subscribe to the standard in question. The proper way to do that is to have these Conventions ratified by parliament and then make national laws (Some countries may follow the system of self-executing treaties). National law can be enforced. ILO-Conventions are usually accompanied by Recommendations on how to implement the standards.

Since 1999, the ILO works according to the so called Decent Work Agenda. In the meantime, the Decent Work Agenda has been widely accepted as an important strategy to fight poverty and foster development. The Agenda has been incorporated in the Millennium Development Goals of the United Nations. In short, the idea behind Decent Work is first of all an income which allows the working individual a good life. Moreover, at work, everybody has an equal chance to develop themselves; working conditions are safe; there is no instance of child and forced/bonded labour; and discrimination does not occur. Trade unions are allowed a real say in work related matters and the state has created a social safety net for all especially for the sick, weak, elderly and expecting women.

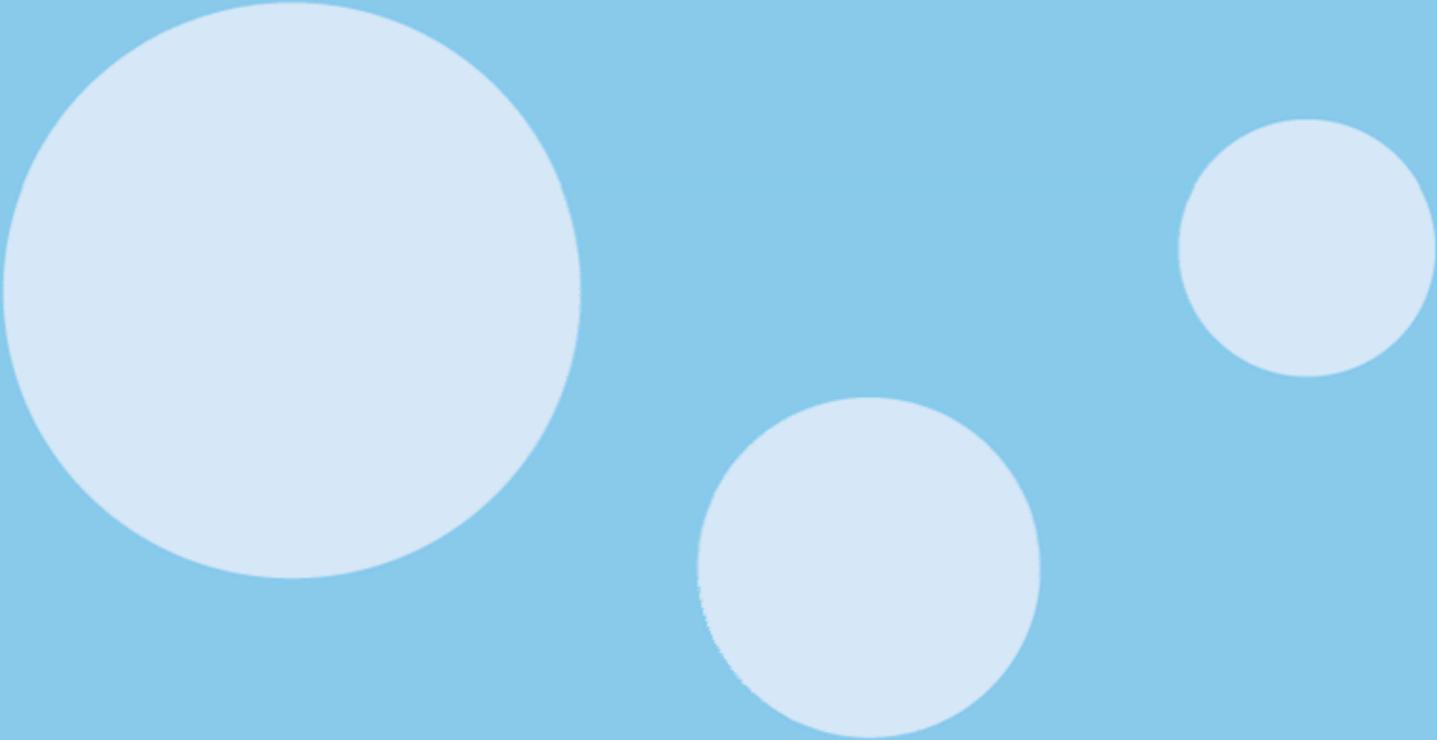
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