



# **Targeted Surveys on application of core labour standards Bolivia**

**Written by Ergon Associates  
August 2018 (Revised)**

---

**Ergon**

---



**EUROPEAN COMMISSION**

Directorate-General for Employment, Social Affairs and Inclusion  
Directorate D — Labour Mobility  
Unit D.3 — International Issues

E-mail: [empl-d3-unit@ec.europa.eu](mailto:empl-d3-unit@ec.europa.eu)

European Commission  
B-1049 Brussels

# **Targeted Surveys on application of core labour standards Bolivia**

Directorate-General for Employment, Social Affairs and Inclusion  
EU Programme for Employment and Social Innovation

2018

EU [Number] EN

***Europe Direct is a service to help you find answers  
to your questions about the European Union.***

**Freephone number (\*):**

**00 800 6 7 8 9 10 11**

(\*) The information given is free, as are most calls (though some operators, phone boxes or hotels may charge you).

#### **LEGAL NOTICE**

The information and views set out in this survey report are those of the author(s) and do not necessarily reflect the official opinion of the Commission. The Commission does not guarantee the accuracy of the data included in this study. Neither the Commission nor any person acting on the Commission's behalf may be held responsible for the use which may be made of the information contained therein.

More information on the European Union is available on the Internet (<http://www.europa.eu>).

# Targeted Surveys on application of core labour standards, Bolivia

This report has been developed to provide a picture of the application of core labour standards in Bolivia. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

## Progress

- Broad constitutional rights provide strong basis for ongoing labour law reform
- Wide range of policies and initiatives to address discrimination, including in work
- Constitutional Tribunal has annulled provisions allowing children under 14 to work legally.

## Challenges

- Informality and casualisation of employment undermine worker and trade union rights
- Tripartite relations are poor
- Restrictions on freedom of association in the public sector
- Limited trade union autonomy
- Lengthy judicial delays
- Limited data on child / forced labour

## Key context

Despite an extended period of relative stability, Bolivia's political environment can still give rise to conflicts and a volatile context for labour relations. The government's aim to expand national energy production may lead to further conflict with unions, indigenous groups, and other social actors with stakes in the controversial sector, conflicts that risk wider labour and human rights' violations. More generally, the recent economic slowdown may negatively affect the application of core labour standards in various ways, increasing household poverty (a driver of child and forced labour), and further restricting resources for key state agencies (weakening enforcement and social protection programmes).

Informal and casual workers face particular challenges to the exercise of core labour rights. Concerns among stakeholders about a range of labour and human rights issues are typically more acute in relation to informal workers (e.g., child labour, forced labour, gender-based violence, and sexual harassment are all more prevalent in the informal economy, according to reports). The concentration of women in the informal sector means women are disproportionately exposed to these heightened risks.

In general, Bolivia's legal framework provides broad protections for core labour standards, but with some noteworthy exceptions, especially concerning freedom of association and collective bargaining in the public sector. Key rights established at the level of the Constitution – in relation to collective bargaining, right to strike, and discrimination (especially equal pay) – are not yet fully implemented in labour legislation.

In practice, there have been important areas of progress in recent years, including: the ongoing development of a new general labour law; expansion and capacity-building of the labour inspectorate; and specific programmes to address forced labour / trafficking, child labour, and discrimination. However, a lack of financial and human resources

undermines enforcement efforts, especially in remote areas. Informality and employment casualisation remain overarching constraints on the application of core labour standards.

## **Freedom of association and collective bargaining**

Bolivia's legal framework provides inconsistent protections for freedom of association and collective bargaining. Despite broad guarantees at the level of the Constitution, labour legislation continues to bar public servants from forming trade unions or engaging in collective bargaining, permits private enterprises with fewer than 20 employees to prohibit unionisation, entitles labour inspectors to attend union meetings, and restricts the right to strike in defined circumstances. However, the government reports that new legislation is being prepared, including a new general labour law, to align labour legislation with the Constitution and international standards.

In practice, Bolivian civil society is highly engaged in politics, and labour relations can be fractious. Contentious labour relations and wider social/political volatility may constrain full exercise of workers' freedom of association – there are allegations of threats, physical attacks, dismissals, and other retaliatory measures taken against union activists. Additionally, trade unions allege that some employers circumvent worker demands by refusing to recognise new unions or promoting more employer-friendly, parallel unions. Fines for anti-union discrimination are unevenly enforced.

Informality and casual employment make it difficult in practice for workers to organise and for unions to engage in effective collective actions. Informality also constrains effective enforcement of labour legislation in many cases.

## **Forced labour**

The law prohibits all forms of forced and compulsory labour and provides for stringent penalties for offenders. However, forced labour remains a concern among stakeholders, especially in domestic service, illegal mining, ranching, and other agricultural sectors. There are also reports of human trafficking, including sex trafficking. Chronic poverty and systematic discrimination may leave indigenous communities particularly at risk. There are reports of debt bondage of indigenous workers involved in seasonal agriculture and cattle ranching, although recent information in this area is limited.

To address forced labour and trafficking, the government reports an increase in the number of labour inspectors to focus on high-risk sector; a National Action Plan to combat trafficking; and promotion of the 'Triple Seal' certification scheme, which certifies goods free from forced labour, child labour, and discrimination. However, a lack of financial and human resources constrains the implementation of key programmes and enforcement efforts, while penalties are often insufficient.

## **Child labour**

The minimum age of employment has been especially controversial in recent years. The 2014 Child and Adolescent Code (CNNA) permitted children as young as 10 to work in defined situations, in direct contravention of C138. The government argued that the law simply reflected the economic and cultural reality of Bolivia and provided protections for children who would otherwise work illegally. However, Bolivia's Constitutional Tribunal annulled the relevant provisions of the CNNA in July 2017, citing incompatibility with C138, thus restoring the minimum age of employment to 14 years.

In practice, child labour occurs across Bolivia. Children work in various agricultural sectors, often alongside their families, as well as in brick production, on construction sites, in commercial cleaning services, domestic work, street vending, and mining. Forced child labour may occur in some of these sectors, and there are also reports of child commercial sexual exploitation. Indigenous children are especially at risk of child labour, including work in agriculture and mines. Child labour laws are not consistently enforced, often because authorities lack sufficient resources and capacity. A lack of resources also constrains the effective operation of victim protection and rehabilitation services.

## **Discrimination**

Several laws and the Constitution prohibit discrimination generally and in employment specifically. However, there are important omissions in the extant legal framework, including the lack of specific prohibitions against gender discrimination in hiring, legislation to implement 'equal pay for work of equal value' (which is guaranteed by the Constitution), and mechanisms to address workplace sexual harassment.

In practice, discrimination continues to exist across the labour market, particularly affecting women, indigenous people, and people with disabilities. For example, there remain marked gender and ethnic pay gaps, with women and indigenous people significantly disadvantaged. In the former case, pay differentials partly reflect women's horizontal and vertical segregation in the workforce – in certain low-productivity sectors (retail, agriculture, domestic work) and more junior positions overall – although there are also reported cases of direct wage discrimination. Stakeholders attribute occupational segregation and pay differentials to both long-term gender norms and stereotypes, as well as direct discrimination against women and indigenous people.

## **Other working conditions**

A range of labour market factors affect the application of core labour standards and the realisation of Decent Work principles. Most concerns focus on informality (accounting for as much as 85% of employment) and the casualisation of labour. These trends leave increasing numbers of workers in precarious forms of employment, characterised by low and fluctuating wages, irregular hours of work, absent or limited social security benefits, and few employment protections.

**Occupational safety and health.** Although OSH regulations are generally adequate, limited capacity in the labour inspectorate constrains effective enforcement. In practice, OSH standards are poor in the informal sector, especially in mining and agriculture.

**Working time.** Workers in the informal sector – especially in mining, agriculture, and small-scale retail – frequently work hours in excess of legal limits and without stipulated rest periods.

**Maternity protection.** Many workers are unaware of laws covering maternity leave and employment protection, according to stakeholders. As a result, women unlawfully dismissed due to pregnancies rarely report the offence or seek legal remedy.

**Wages.** Employers' groups claim that excessive annual increases to both the minimum wage and basic salary foment informality to the detriment of labour rights and working conditions overall, while they also allege marginalisation in tripartite wage-fixing

processes. More generally, there are reports of sub-minimal wages and non-payment of overtime rates in the informal sector.

## Status of ratification and reporting

Bolivia has ratified all ILO fundamental (core) conventions and three governance (priority) conventions (excepting C129). Although the government generally meets regular reporting requirements, ILO's International Labour Conference has recently requested out-of-cycle reports for C138 (employment age) and C131 (minimum wage).

		<b>Application issues - latest ILO CEACR observations and direct requests on core conventions</b>
<b>Freedom of association &amp; collective bargaining</b>	C87	(2017): Recalled previous unresolved concerns about Bolivian labour law, including: exclusion of agriculture workers from the scope of the general labour law; denial of the right to organise for public servants; excessive membership requirements for establishing a trade union; right of labour inspectors to attend union meetings; bans on foreign nationals and non-permanent employees serving as union officers; three-quarter majority requirement for strikes; the illegality of general strikes; and the possibility of imposing compulsory arbitration to end a strike. It noted ongoing work to draft a new labour code and law on public servants, and it trusts the government will adopt such legislation in very near future.
	C98	(2017): Recalled previous unresolved concerns about inadequate fines for anti-union discrimination and the lack of an express legal guarantee of collective bargaining for public servants and agricultural workers.
<b>Forced Labour</b>	C29	(2015): Recognised efforts to aid enforcement through training officials and increased labour inspections, focusing on high risk sectors/communities. It encouraged the government to strengthen state presence in high risk areas and report on steps taken to address root causes of forced labour. It also noted the limited number of prosecutions for forced labour offences overall. It requested the government to improve cooperation between relevant bodies to ensure forced labour cases are prosecuted effectively.
	C105	(2015): Sought clarification on whether compulsory prison labour is imposed on prisoners convicted for offences linked to illegal (but peaceful) strike participation or the expression of political views, scenarios that would contravene C105.
<b>Child labour</b>	C138	<p>(2018): Expressed deep concern at provisions permitting a reduction in the minimum age of employment from 14 to 12 or 10 years in defined circumstances, and similar provisions that permit children to engage in light work from age 10. <i>Bolivia's Constitutional Tribunal annulled these provisions in July 2017.</i></p> <p>Urged the government to establish in law a minimum age of 14 years for admission into apprenticeships, noting the lack of an express minimum age in the labour code.</p>



	C182	<p>(2018): Noted various initiatives to address child labour in sugarcane and brazil nut sectors specifically. However, it urged the govt to take steps to prevent, identify, and rehabilitate victims of forced child labour in these sectors. It also requested the govt to adopt its national policy on eliminating child labour, which remains unimplemented.</p> <p>Requested intensification of efforts to increase school attendance and to protect indigenous children from child labour.</p>
<b>Discrimination</b>	C100	<p>(2017): Requested that the govt ensure that the new labour law is adopted shortly and fully establishes the principle of 'equal pay for work of equal value', which are not in current law.</p> <p>Requested a report on measures taken to adopt a method for the objective evaluation of jobs, noting such a method is a pre-requisite for assessing compliance with the principle of 'equal pay for work of equal value'. It also requested govt establish suitable mechanisms for reporting cases of wage discrimination.</p>
	C111	<p>(2017): Noted previous policy initiatives that address discrimination in employment, but noted the lack of information concerning impact. It also noted the lack of visible measures – beyond a general national anti-racism policy – to address discrimination in employment against indigenous people; the lack of information about specific measures taken to address workplace sexual harassment; and concerns about access to remedy.</p>

## References

ILO CEACR, [Observations and Direct Requests for Bolivia](#)