



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

## **Peru**

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**EUROPEAN COMMISSION**

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Directorate-General for Employment, Social Affairs and Inclusion  
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# Targeted Surveys on application of core labour standards, Peru

This report has been developed to provide a picture of the application of core labour standards in Peru. 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

- New criminal provisions on forced labour and stronger penalties for related offences.
- Policies and initiatives to improve official capacity concerning forced / child labour.
- National Action Plans and specific legislation to address discrimination in employment.

## Challenges

- Use of fixed-term contracts as an anti-union tactic, especially via 'special labour regimes'.
- Under-funding and lack of resources for labour inspectorate and other key agencies.
- Continued restriction on strikes and public sector collective bargaining
- Limited data on child / forced labour incidence

## Key context

In general, Peru has experienced a sustained period of relative political and economic stability in recent years, despite occasional crises. However, the political system functions poorly and legislative initiatives are often difficult to progress. There are also allegations of widespread official corruption, including in the judicial system, which impede effective enforcement efforts and access to remedy in labour rights cases.

The trade union movement is weak and there is a lack of public faith in unions. These weaknesses are both a legacy of civil war associations between the political left and guerrilla groups, and a result of broad economic liberalisation and labour flexibilization policies adopted by the Fujimori (1990-2000) and subsequent governments.

There has been notable growth in the Peruvian economy, although uneven distribution of economic benefits has left high levels of poverty in certain regions. Poverty and lack of access to basic public services are frequently cited as underlying factors contributing to child and forced labour. An export-oriented economic model has included the adoption of 'promotional laws' covering specific sectors, including export agriculture, which exempt employers in the sector from certain labour protections in the general labour legislation. Many reports from stakeholders about the non-application of core labour standards relate to workers in these 'special labour regimes' and are central to a labour complaint currently pending under the EU-Peru trade agreement.

The labour force is characterised by significant informality and casualisation, which leads to weak trade unions, enforcement challenges, and labour exploitation. There are significant ethnic and regional divisions, and wider societal discrimination against indigenous people and Afro-Peruvians extends to employment contexts. Gender and ethnic pay gaps, partly due to occupational segregation, persist across the Peruvian labour market.

In general, Peru's legal framework provides adequate protections for core labour standards. However, weak enforcement and inadequate victim support services are significant concerns among stakeholders. Under-funding of key agencies, including the labour inspectorate, a lack of interagency cooperation, and lengthy delays in judicial proceedings are among the principal enforcement constraints identified.

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

The law provides broad protections for freedom of association and collective bargaining, although there remain several limitations. Trade unions argue that the need for 20 members at a workplace for official registration unduly restricts freedom of association. The ILO and national stakeholders have also raised concerns about the prohibition on unionisation among trainees and some public sector employees; the continued exclusion of wage issues from the scope of public sector collective bargaining (despite Peru's Constitutional Tribunal ruling that such exclusions are unconstitutional); and restrictions on certain types of 'atypical' industrial action, such as go-slows and work-to-rule.

In practice, some employers may use the discriminatory non-renewal of fixed-term contracts to dissuade and prevent unionisation. In some cases, these practices are facilitated by 'special labour regimes' that relax restrictions on such contracting practices in designated sectors, including some agricultural and 'non-traditional export' sectors. There are also reports of other forms of anti-union discrimination, including threats, physical violence, and arbitrary dismissal of workers for legitimate union activities. Excessive judicial delays in processing labour cases may effectively deny some workers access to remedy.

## **Forced labour**

The law prohibits all forms of forced or compulsory labour, and stakeholders' concerns focus primarily on enforcement limitations. In general, forced labour occurs primarily in the informal sector and particularly in more remote rural areas. There are reports of elements of forced labour – including debt bondage – affecting workers in the informal mining, forestry/logging, agricultural, and brick-making industries, and among domestic workers. There are also reports of trafficking for forced labour and sexual exploitation, particularly in poor and indigenous communities in remote areas.

Overall, weak enforcement is a key factor constraining efforts to address forced labour. Amongst other items, there are specific concerns about insufficient strategic planning and coordination among government agencies; a lack of funds, pertinent knowledge / training, and other resources across key enforcement and judicial authorities; and corruption and official complicity in trafficking and other illicit activities.

## **Child labour**

Peru's legal framework concerning child labour is broadly in line with international standards, although there remain some contradictions and discrepancies. For example, although the minimum age of employment is 14 years, full-time education is compulsory until 15 years, while current legislation permits adolescents to work in mining or fishing despite both industries being designated as hazardous occupations. The absence of a legal definition of 'light work' means that national legislation provides no additional protections to children under 15 years who engage in some forms of work.

However, enforcement limitations are the principal concern in this area, especially in relation to the informal sector where most child labour occurs. In practice, the prevalence of child labour remains extensive, particularly in rural areas. Moreover, a high percentage of children working are reportedly involved in the worst forms of child labour, especially in artisanal mining operations, logging, brick-making, and small-scale agriculture. Indigenous children are especially prone to dropping out of school and being involved in hazardous work in agriculture. Additionally, there are reports of hazardous child labour in domestic work, as well as commercial sexual exploitation linked to both the tourism and illegal mining and logging industries. Enforcement efforts are constrained by under-funding of the labour inspectorate, the remote location of high risk industries (e.g., illegal mining in the Amazon region), inconsistent interagency cooperation and data collection, and the limited involvement of tripartite partners.

## **Discrimination**

The law prohibits discrimination in employment on various grounds, and recent reforms have strengthened legislation concerning equal pay and equal opportunities in employment more generally. However, both direct and indirect discrimination continue to affect employment opportunities and treatment for diverse groups, especially women, indigenous and Afro-Peruvians, and people with disabilities.

Stakeholders highlight both horizontal and vertical segregation in Peru's labour market, with women, indigenous people, Afro-Peruvians, and people with disability concentrated disproportionately in low-paid sectors, mostly in the informal sector, and more junior positions overall. Labour market segregation may partially explain significant gender and ethnic wage gaps. However, wage disparities between men and women engaged in similar work suggest the presence of more direct forms discrimination, and routine gender-based and ethnic discrimination reportedly affects many employers' hiring and promotion decisions. Long-standing sociocultural stereotypes about the relative aspirations, aptitudes, and social roles of women, indigenous people, and Afro-Peruvians are broader constraints on employment opportunities. Finally, direct discrimination on the part of employers, and physical barriers to workplaces, constrain employment opportunities for people with disabilities.

## **Other working conditions**

There are several areas of concern with respect to broader working conditions in Peru. In particular, informality and labour casualisation have contributed to an increasing number of workers engaged in precarious forms of employment, particularly young people, who are affected by irregular and inadequate wages, uneven social security coverage, and limited employment protection. Workers employed under 'special labour regimes' face similarly precarious conditions, particularly due to the widespread use of fixed-term and temporary contracts over extended periods.

**Occupation safety and health.** There are routine violations of OSH standards in both private and public sectors, primarily due to weak enforcement. There are particular concerns about inadequate OSH standards in small and medium enterprises and in the informal economy. According to trade unions, the law sets an unreasonably high threshold for establishing employers' liability for workplace injuries and wider non-compliance with OSH regulations.

**Wages.** Wage laws are not consistently enforced, with reports that many workers in smaller enterprises or engaged in informal work receive subminimal wages. A 2018 increase in the minimum wage has been challenged as politically motivated and not based on the country's financial capabilities.

**Employment protection legislation.** Stakeholders have consistently raised concerns about 'special labour regimes' that permit the unlimited use of fixed-term and temporary contracts. In other sectors, employers' representatives claim certain employment protections (e.g., severance pay) promote informality by imposing unreasonable potential costs on employers associated with the recruitment of permanent employees. There are also concerns about legislative proposals that would make collective dismissals due to economic hardship more accessible to employers.

**Social security coverage.** Once again, high informality and the prevalence of fixed-term contract workers are principal concerns among stakeholders, with these categories of workers typically excluded from most contributory social security schemes. Legislation that allows for the withdrawal of social security contributions has also been criticised following massive withdrawals that could deplete the system's funds.

## Status of ratification and reporting

Peru has ratified all ILO fundamental (core) conventions and three of four governance (priority) conventions (excepting C129). There are no reported concerns about Peru's reporting obligations.

		Application issues - latest ILO CEACR observations and direct requests on core conventions
<b>Freedom of association &amp; collective bargaining</b>	C87	(2016): Requested the government remove legal restrictions on the right to organise and bargain collectively for certain categories of workers (trainees, judges, prosecutors, and some civil servants). It also urges the government to ensure an independent body determines the legality of strikes, rather than labour authorities. It requests review of rules that restrict union access to schools.  Requested review of legal prohibitions on certain 'atypical' forms of strikes in the public sector.
	C98	(2016): Requested review or revision of various legislation covering export sectors and public servants that permit the extensive use of temporary contracts, noting how the discriminatory non-renewal of such contracts is used by employers to restrict workers' capacity to organise. It also requests amendments to allow public sector collective bargaining to include wage issues.  Noted how a protracted judicial process limits workers' access to remedy in anti-union discrimination cases.
<b>Forced Labour</b>	C29	(2018): Welcomed amendments that strengthen criminal provisions on forced labour, while noting wider enforcement limitations, primarily due to lack of funds/resources. It encourages the government to strengthen the states' presence in high risk areas.
	C105	(2018): Sought clarification on whether provisions in the Penal Code that prohibit the 'obstruction' of citizen movements or public services



		are applied to restrict peaceful strikes or protests.
<b>Child labour</b>	C138	(2017): Noted that labour or judicial authorities can approve children aged 12-14 years to work and 15-18 year-olds to work hazardous occupations. It hopes draft legislation will remove these provisions. It also requests the government strengthen the labour inspectorate to improve enforcement in the informal economy.
	C182	<p>(2017): Urged the government to ensure thorough investigations and robust prosecutions in child labour cases, citing the low numbers of cases identified and prosecuted. It urges the govt to build capacity in the labour inspectorate to improve enforcement in the mining sector and for domestic workers.</p> <p>Encouraged the government to continue efforts to protect street children and indigenous children from child labour, citing several existing initiatives, but to intensify efforts to address poverty as an underlying cause of child labour.</p>
<b>Discrimination</b>	C100	<p>(2015): Noted the lack of an objective job evaluation system for effective implementation of the principle of 'equal pay for work of equal value'. <i>However, new legislation introduced in 2018 has addressed this limitation.</i></p> <p>It also asks the government to identify and address underlying causes of the existing gender wage gap, such as discrimination and stereotyping.</p>
	C111	<p>(2015): Requested the government assess the impact of 'special labour regimes' (that reduce labour protections), noting that affected sectors employ disproportionately women and indigenous people. It also requests the government strengthen the labour inspectorate to address discrimination at work.</p> <p>Noted the apparent omission of 'colour' and 'nationality' from prohibited grounds of discrimination in laws covering the public sector, and it requests clarification. It requests the government ensure sufficient funding for enforcement procedures concerning sexual harassment (<i>recent initiatives address this issue</i>).</p>

## References

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