



INTER-AMERICAN DEVELOPMENT BANK

**Environmental and Social Unit  
Private Sector Department**

# **Managing Labor Issues In Infrastructure Projects**



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*The PRI Environmental and Social Guidelines are developed to assist in the management of environmental, social, health and safety, and labor aspects particularly related to private sector infrastructure and capital market investments in Latin America and the Caribbean. The guidelines do not necessarily reflect specific requirements for financing by the Inter-American Development Bank nor do they reflect the official position of the Bank.*

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# 1. INTRODUCTION

Respect for internationally recognized worker rights is vital for sustainable development, in terms of economic sustainability of a private sector company or a project it is developing, developing and maintaining social capital, and social sustainability of local communities. Labor aspects are particularly relevant for private sector infrastructure projects since they typically involve significant amounts of workers, both during construction as well as operation. Recognition of the need to protect the rights of workers is evident through the existence of a vast body of international conventions established by the International Labour Organization (ILO) and ratified by countries throughout the world. Clearly, all projects, and their associated companies, must comply with any applicable in-country legal labor requirements, including all ILO conventions that the respective country has ratified. However, the mere existence of the legal framework cannot alone guarantee protection of workers. To achieve this, all projects must respect and protect the fundamental labor rights enunciated by the core ILO conventions, as well as any project-specific requirements deemed necessary based upon the full range of ILO conventions, recommendations, and other relevant standards.

The Private Sector Department (PRI) of the Inter-American Development Bank (IDB) was created in 1995 to mobilize private financing for infrastructure. Working in partnership with commercial banks, institutional investors, and other co-lenders, PRI provides private companies with financing to meet the region's growing demand for infrastructure and public utilities; it also helps to improve the capacity of local capital markets to develop long-term financing instruments. PRI focuses on several sectors: energy (generation, transmission, and distribution); water supply and wastewater treatment; transportation (roads, railways, ports, and airports); and telecommunications. The principal financial products of PRI are project finance, corporate finance, guarantees, and capital markets. The PRI Environmental and Social Unit (ESU) is responsible for managing, controlling and providing leadership related to environmental, social, health and safety, and labor aspects.

PRI is committed to ensuring that each PRI-supported project is fully assessed, approved, and monitored with respect to environmental, social, health, safety, and labor standards, and moreover, that each project is environmentally and socially sustainable. In addition, PRI/ESU is committed to promoting more broadly environmental and social sustainable private sector investment in infrastructure in Latin America and the Caribbean. In this context, ESU develops guidelines to assist in the management of environmental, social, health and safety, and labor aspects.

## 1.1 Guideline Objectives

In order to assist project companies in understanding and complying with labor requirements, the PRI ESU has developed the present guideline. The guideline has three main objectives—first, to educate and inform project companies, financiers and other relevant parties about the labor rights conditions that for private sector investment projects; second, to provide a reference manual for those staff who conduct due diligence and supervision or monitoring reviews of labor aspects in projects; and third, to help companies and their projects conform to and go beyond legal conditions.

The guideline was specifically designed with private sector infrastructure projects in mind. However, they may also be helpful in addressing labor rights considerations in other areas of private sector operations.

The guideline can help to mitigate existing or potential labor rights controversies (i.e. risks). The guideline is not intended to resolve all potential problems of this sort, but rather to raise users' awareness of the spectrum of issues and possible solutions. Some labor issues will require more complex corrective measures or the technical expertise of labor rights specialists.



## 1.2 Basis for Guideline

The primary resources used for the guideline come from the International Labour Organization (ILO),<sup>1</sup> which formulates international labor standards through its conventions, declarations, and recommendations. The guideline also references documents from several organs of the United Nations system and other international and national sources. Over the years, ILO has established the international legal requirements that are generally accepted as the minimum standard of recognition and respect for the “core” labor rights as well as related standards across a broader spectrum of work-related issues. Under international law, ILO conventions carry the status of treaties. When a country ratifies<sup>2</sup> an ILO convention, it is bound under international law to observe the obligations within that specific instrument. ILO instruments are generally drafted with a fair degree of flexibility. They often do not specify detailed requirements, but rather defer on details to “competent national authorities.”<sup>3</sup> In addition, ILO also provides technical assistance to countries in work-related areas. These include vocational training and rehabilitation, employment policy, labor law and industrial relations, labor statistics, and occupational health and safety. Another important ILO function is to promote, train, and advise independent employers’ and workers’ organizations.

ILO requirements begin first and foremost with the “core” labor rights. These have been articulated in the Declaration on Fundamental Principles and Rights at Work of 1998. There are four basic areas of rights:

- Freedom of association and the effective recognition of the right to collective bargaining (Conventions 87 and 98).<sup>4</sup>
- Elimination of all forms of forced or compulsory labor (Conventions 29 and 105).
- Effective abolition of child labor (Conventions 138 and 182).
- Elimination of discrimination in respect to employment and occupation (Conventions 100 and 111).

According to the ILO, the rights contained in these conventions are immutable. They are part of the body of fundamental human rights that the international community regards as universally applicable to all nations. Because of the fundamental centrality of these core rights, the realization of the other worker rights standards—such as minimum wage, maximum work hours, special provisions for indigenous and migrant workers, social security benefits, and the industry sector protections—are linked and logically follow. Child and forced labor, for example, distort rights related to fair wages, working hours, and the ability of other workers to freely associate or bargain collectively. Similarly, restrictions on freedom of association undermine workers’ rights to have their concerns heard. Freedom of association through freely elected trade unions and similar forms of organization reinforces workers’ rights related to minimum wages and maximum hours, to fair treatment of minorities and women, to appropriate occupational safety equipment, and so forth.

Almost all Latin American and Caribbean countries have signed<sup>5</sup> the eight ILO core conventions. However, they all have not ratified every convention. Pursuant to the terms of the Declaration on Fundamental Principles and

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<sup>1</sup> For more information about the International Labor Organization, see <http://www.ilo.org/>.

<sup>2</sup> *Ratification* means “the international act... whereby a state establishes on the international plane its consent to be bound by a treaty.” See Article 2, Vienna Convention on the Law of Treaties.

<sup>3</sup> The ILO index defines *competent national authority* as “the authority, which, under the Constitution of each state, has power to legislate or to take other action in order to implement Conventions or Recommendations. Under the ILO’s Constitution, it is to this authority that all new ILO Conventions and Recommendations must be submitted for consideration.” See <http://www.ilo.org/>.

<sup>4</sup> The use of the upper-case word, *Convention*, is used here and elsewhere in this publication to refer to a specific ILO convention on labor rights.

<sup>5</sup> Where a state has merely signed a treaty, but has not yet ratified the treaty or made its intention clear that it does not want to ratify (“become a party to”) a treaty, the state “is obliged to refrain from acts which would defeat the objective and purpose of the treaty.” See Article 18, Vienna Convention on the Law of Treaties.

Rights at Work of 1998, all ILO members are required to promote and realize in good faith the rights contained in these eight conventions, whether or not they have ratified them.<sup>6</sup> Table 1.1 shows the current ratification status of the core conventions by IDB member countries and Table 1.2 shows the conventions to which these guidelines refer.

### 1.3 Using the Guideline

The present guideline is developed to assist in the design, assessment, and monitoring of labor aspects in private sector infrastructure projects in Latin America and the Caribbean.<sup>7</sup> The associated processes can be broken down into two distinct parts—*due diligence* for projects under design or evaluation and *supervision* or monitoring of projects in execution. Due diligence refers to the detailed assessment that confirms the feasibility of the project related to labor aspects. The due-diligence phase provides the foundation to understand labor issues associated with a project. With that understanding, appropriate conditions can be incorporated into the project. Supervision refers to the monitoring that ensures that projects meet all labor requirements once the project is under construction and operation.

Due diligence and supervision typically consist of three activities—information collection and review, site visits, and reporting.

#### Information Collection and Review

This process entails a thorough information review of all aspects relevant to labor rights in a particular project or company. To undertake this review properly, staff must thoroughly understand the thematic categories and subcategories that are presented in the guideline. The following documents are considered as primary material. They are ordinarily reviewed in due-diligence and in supervision/monitoring exercises:

- Company written policies and implementation procedures on the protection of worker rights and their means of addressing complaints
- Company training and orientation materials, both for workers and management
- Company records, including any required certificates regarding government inspections by labor, immigration, and health ministries, as well as records of violations, fines, penalties, or corrective actions
- Company employment contracts for all occupational categories, including contractors.<sup>8</sup>
- Company records regarding previous or current legal investigations or legal actions relating to workers, employment practices, or workplace conditions, as well as to applications to form unions
- Employment payroll and time sheets for all employees
- In-country laws relating to observance of the core labor rights as well as conditions and standards for wages, hours, rest periods, termination, and so forth
- Collective bargaining agreements, if any should exist
- Company records concerning employee job-related injuries or illnesses, as well as employee and management disciplinary actions

<sup>6</sup> See Article 2, ILO Declaration on Fundamental Principles and Rights at Work, at <http://www.ilo.org/public/english/standards/decl/declaration/text/index.htm>.

<sup>7</sup> Although the ILO also concerns itself with other issues beyond the strict interpretation of labor, such as worker health and safety, these are not the focus of this guideline, and therefore their coverage within the guideline is only cursory.

<sup>8</sup> In this guideline, the term “contractor” is intended to include both contractors *and* subcontractors.

When collecting and reviewing information in preparation for due diligence and monitoring of labor conditions, it is important to be aware of the specific ILO conventions that the country has ratified, as well as relevant national labor laws. These are summarized in Tables 1.1 and 1.2 for IDB borrowing member countries, as of December 2005. However, countries ratify conventions on a continuous basis, so the information should always be checked on the ILO Web site (<http://www.ilo.org/>) for the most recent updates on ratifications.

Advance preparation for site visits requires familiarity with local and regional socio-cultural and economic conditions, especially with regard to the status of women, indigenous groups, other minorities, and the status of organized labor. Sources of information for this phase could also include labor and human rights Web sites, the U.S. State Department, ILO, other UN agencies, Human Rights Watch, NGO reports, and country studies (see Annex A for an elaboration on potential sources of information). Where appropriate, meetings can be held with academics and other experts on human rights and the industrial relations climate.

This information is used for several purposes: baselines are established for assessing project compliance with commitments on labor rights; additional questions and requests for information are formulated; and groups and persons are identified for subsequent interviews relating to due diligence and supervision site visits.

To assist in an initial evaluation, a labor standards checklist is provided in Annex B.

### Site Visits

Site visits should consist of on-the-ground observation of areas directly and indirectly affected by the project. It includes meetings with key individuals and entities—for example, project management, contractors, workers, and other stakeholders. Additional information can be obtained from project staff, public authorities, and other interested parties. For large infrastructure projects typically one site visit is needed for due-diligence. The frequency of supervision site visits for projects under execution is variable depending on the project characteristics and type and magnitude of labor issues.

An effective site visit requires substantial advance preparation. This involves putting to use the information compiled and evaluated during the information collection and review stage, including “indicators” and gathering of necessary documents. This preparation entails identifying stakeholders who can assist the reviewer in assessing labor conditions, as well as formulating questions for follow-up interviews. The following stakeholder groups are parties that could be interviewed during a site visit:

- Project management.
- Project workers, including those in trade unions or other organizations representing worker rights
- Contractors
- Trade union representatives at the project or in the region
- Local or national Labor Ministry authorities
- Local human rights non-governmental organizations, churches leaders, and community service and other civil society organizations
- Indigenous and other local community authorities
- Public health and medical professionals
- Academic experts on labor rights and industrial relations
- Regional offices of the ILO

Wherever possible, potential interviewees should be contacted directly in order to inject the process with greater objectivity, confidentiality, and integrity. Ideally, interviews should be held in non-threatening, confidential, secure locations that could likely be away from the project site. If interviews are held at the site, meetings should be conducted with permission from project management. At the outset of the interview, it should be clearly stated that the purpose of the interview, including how information will be used and whether and to whom the name of the interviewee will be disclosed. The reviewer should always respect requests for anonymity, taking into consideration the possible consequences for an individual's future employment and professional status.

## Reporting

During this phase, all information collected during the information collection and review stage and the site visits is reviewed. As needed, follow-up questions to project management, workers, and other individuals and groups may be required to clarify outstanding issues and to close information gaps. After compiling and analyzing this data, a report should be prepared that evaluates the labor rights situation at the project, particularly with regard to observance of host-country labor laws and ILO standards. The report should assist in determining the feasibility or adequacy of the project with respect to labor conditions and, as warranted, develop an action plan to resolve identified issues.

### 1.4 Organization and Structure of Guideline

The guideline is organized by seven thematic categories for labor rights:

- Internationally recognized core labor rights, which are the fundamental rights that serve as the foundation for the other labor rights—that is, freedom of association, the right to organize and bargain collectively, abolition of forced labor, prohibition of child labor, and equality of opportunity and treatment (Section 2).
- Conditions of employment, such as wages, termination and dismissal, and personnel management (Section 3).
- Conditions of work, including hours of employment, night work, and rest periods (Section 4).
- Social security, including medical care, sickness, and maternity benefits (Section 5).
- Special provisions by category of persons, specifically related to circumstances of certain vulnerable groups in the workplace, including migrants, indigenous peoples, and children (Section 6).
- Special provisions by sector of the economy, specifically the infrastructure sectors of road transportation and dock work (Section 7).
- Temporary workforce accommodations, which distill practice and policy statements from various sources to create a set of standards for basic hygienic, comfort, and safety requirements where workers are housed in temporary accommodations, a common situation with large infrastructure projects (Section 8).

Each thematic category (section) follows a structure that has been devised as an easy reference system for users. Specifically, the thematic labor rights categories are broken down into similar subcategories, each consisting of the following sub-sections:

- *Introduction.* The specific labor rights issues pertinent to that subcategory, as well as ILO conventions and recommendations addressing that right.
- *Requirements.* Requirements specifically applicable to infrastructure projects (or companies), which summarize without legal jargon the relevant ILO legal obligations specified under the articles discussed in the previous section.

- *Table summarizing requirements, questions, and indicators.* The requirements are related to specific conventions, which are presented with the requirements for compliance. Questions are formulated based on the requirements. These can be used when conducting an assessment of evaluation of a projects compliance with specific labor rights requirements. Indicators suggest quantitative and qualitative measurements, including data that can help determine whether specific legal requirements are being observed. The content of an indicator may entail interviews or requests for specific documentation relating to project policies or procedures. This may mean obtaining reports or complaints registered with local authorities that confirm the presence or absence of certain conditions. An indicator may also involve calculation of ratios or other quantitative comparisons based on payrolls and work-hour schedules. Such indicators can provide probative evidence regarding the observance or violation of a particular labor right. However, the indicators do not in themselves establish that a labor rights violation has occurred. They need to be used in conjunction with pointed interviews and requests for information from workers, non-governmental organizations (NGOs), other civil society groups, and government authorities.
- *Documents needed.* Existing or potential written materials necessary to construct an indicator or otherwise provide information for assessing the project conformance with the labor rights requirements. Examples include written policies and procedures; employment lists produced by the project; collective bargaining agreements; medical reports; and documents held by local government, ministry, or judicial officials.
- *Site visit.* Suggestions are offered on the types of job-related circumstances or conditions to be observed during a site visit of a project or company—for example, the presence or absence of certain types of workers performing particular job functions. Recommendations are offered about other groups that could be interviewed for additional insight and for a more comprehensive perspective on the status of labor rights at the project. General questions are offered for interviews of this sort.
- *Best practices.* Policies or activities that the project could undertake to complement or exceed the minimum standards set out by the legal requirements. Best practices suggest how to go beyond what is necessary to meet minimal obligations. They provide a project with opportunities to demonstrate leadership in promoting efficiency, respect for the labor force, and overall corporate social responsibility.

**Table 1.1. Fundamental Conventions Ratified by IDB Borrowing Countries<sup>1,2,3</sup>**

| Country             | Forced Labor        |                      | Freedom of Association |                     | Equal Treatment      |                      | Child Labor          |                      |
|---------------------|---------------------|----------------------|------------------------|---------------------|----------------------|----------------------|----------------------|----------------------|
|                     | Convention 29, 1930 | Convention 105, 1957 | Convention 87, 1948    | Convention 98, 1949 | Convention 100, 1951 | Convention 111, 1958 | Convention 138, 1973 | Convention 182, 1999 |
| Argentina           | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Bahamas             | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Barbados            | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Belize              | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Bolivia             | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Brazil              | ✓                   | ✓                    | ✗                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Chile               | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Colombia            | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Costa Rica          | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Dom. Rep.           | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Ecuador             | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| El Salvador         | ✓                   | ✓                    | ✗                      | ✗                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Guatemala           | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Guyana              | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Haití               | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✗                    | ✗                    |
| Honduras            | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Jamaica             | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Mexico              | ✓                   | ✓                    | ✓                      | ✗                   | ✓                    | ✓                    | ✗                    | ✓                    |
| Nicaragua           | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Paraguay            | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Panama              | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Peru                | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Suriname            | ✓                   | ✓                    | ✓                      | ✓                   | ✗                    | ✗                    | ✗                    | ✗                    |
| Trinidad and Tobago | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Uruguay             | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |
| Venezuela           | ✓                   | ✓                    | ✓                      | ✓                   | ✓                    | ✓                    | ✓                    | ✓                    |

<sup>1</sup> Source: ILO. As of December 2005.<sup>2</sup> Convention Number is followed by year of convention<sup>3</sup> ✓ = ratified; ✗ = not ratified.

**Table 1.2 Convention Ratification Status by IDB Member Country (Conventions Used in Labor Guidelines)**<sup>1,2,3</sup>

| Convention (Title & Number)                                       | Argentina | Bahamas | Barbados | Belize | Bolivia | Brazil | Chile | Colombia | Costa Rica | Dominican Republic | Ecuador | El Salvador | Guatemala | Guyana | Haiti | Honduras | Jamaica | Mexico | Nicaragua | Panama | Paraguay | Peru | Suriname | Trinidad & Tobago | Uruguay | Venezuela |
|---|-----------|---------|----------|--------|---------|--------|-------|----------|------------|--------------------|---------|-------------|-----------|--------|-------|----------|---------|--------|-----------|--------|----------|------|----------|-------------------|---------|-----------|
| Core Labor Rights   |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Freedom of Association & Protection of the Right to Organize (87) | ✓         | ✓       | ✓        | ✓      | ✓       | ✗      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✗           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✓        | ✓                 | ✓       |           |
| Right to Organize and Collective Bargaining (98)                  | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✗           | ✓         | ✓      | ✓     | ✓        | ✓       | ✗      | ✓         | ✓      | ✓        | ✓    | ✓        | ✓                 | ✓       |           |
| Workers’ Representatives (135)                                    | ✗         | ✗       | ✓        | ✓      | ✗       | ✓      | ✓     | ✗        | ✓          | ✗                  | ✗       | ✗           | ✗         | ✓      | ✗     | ✗        | ✗       | ✓      | ✓         | ✗      | ✗        | ✗    | ✓        | ✗                 | ✗       |           |
| Collective Bargaining (154)                                       | ✓         | ✗       | ✗        | ✓      | ✗       | ✓      | ✗     | ✓        | ✗          | ✗                  | ✗       | ✗           | ✓         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✓        | ✗                 | ✗       |           |
| Forced Labor (29)   | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✓        | ✓                 | ✓       |           |
| Abolition of Forced Labor (105)                                   | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✓        | ✓                 | ✓       |           |
| Equal Remuneration (100)  | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✗        | ✓                 | ✓       |           |
| Employment and Occupation Discrimination (111)                    | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✗        | ✓                 | ✓       |           |
| Revision of Maternity Protection (103) (Revised)                  | ✗         | ✓       | ✗        | ✓      | ✓       | ✓      | ✓     | ✗        | ✗          | ✗                  | ✓       | ✗           | ✓         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | D       |           |
| Minimum Age (138)   | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✗     | ✓        | ✓       | ✗      | ✓         | ✓      | ✓        | ✓    | ✗        | ✓                 | ✓       |           |
| Worst Forms of Child Labor (182)                                  | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✗     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✗        | ✓                 | ✓       |           |
| Minimum Age (Industry) (Revised) (59)                             | ✗         | ✗       | ✗        | ✗      | ✗       | ✗      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✓         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✓        | ✓    | ✗        | ✗                 | ✗       |           |
| Conditions of Employment  |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Protection of Wages (95)  | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✗     | ✓        | ✓          | ✓                  | ✓       | ✗           | ✓         | ✓      | ✗     | ✓        | ✗       | ✓      | ✓         | ✓      | ✓        | ✗    | ✓        | ✗                 | ✓       |           |
| Minimum Wage Fixing (131)   | ✗         | ✗       | ✗        | ✗      | ✓       | ✓      | ✓     | ✗        | ✓          | ✗                  | ✓       | ✓           | ✓         | ✓      | ✗     | ✗        | ✗       | ✓      | ✓         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |
| Minimum Wage-Fixing Machinery (26)                                | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✗           | ✓         | ✓      | ✗     | ✗        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | ✗        | ✗                 | ✓       |           |
| Termination of Employment and Dismissal (158)                     | ✗         | ✗       | ✗        | ✗      | ✗       | D      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✓       |           |
| Employment Promotion & Protection Against Unemployment (168)      | ✗         | ✗       | ✗        | ✗      | ✗       | ✓      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |
| Private Employment Agencies (181)                                 | ✗         | ✗       | ✗        | ✗      | ✗       | ✗      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✓      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |
| Human Resources Development (142)                                 | ✓         | ✗       | ✗        | ✗      | ✗       | ✓      | ✗     | ✗        | ✗          | ✗                  | ✓       | ✓           | ✗         | ✓      | ✗     | ✗        | ✗       | ✓      | ✓         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✓       |           |
| Employment Policy (122)   | ✗         | ✗       | ✓        | ✗      | ✓       | ✓      | ✓     | ✗        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✗      | ✗     | ✓        | ✓       | ✗      | ✓         | ✓      | ✓        | ✓    | ✓        | ✗                 | ✓       |           |
| Conditions of Work  |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Hours of Work (Industry) (1)                                      | ✓         | ✗       | ✗        | ✗      | ✓       | ✗      | ✓     | ✓        | ✓          | ✓                  | ✗       | ✗           | ✓         | ✗      | ✓     | ✗        | ✗       | ✗      | ✓         | ✗      | ✓        | ✓    | ✗        | ✗                 | ✓       |           |
| Night Work (171)  | ✗         | ✗       | ✗        | ✗      | ✗       | ✓      | ✗     | ✗        | ✗          | ✓                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |
| Weekly Rest (Industry) (14)                                       | ✓         | ✓       | ✗        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✗                  | ✗       | ✗           | ✓         | ✗      | ✓     | ✓        | ✗       | ✓      | ✓         | ✗      | ✓        | ✓    | ✓        | ✗                 | ✓       |           |
| Holidays with Pay (Revised) (132)                                 | ✗         | ✗       | ✗        | ✗      | ✗       | ✓      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |
| Migrant Workers’ (Supplementary) (143)                            | ✗         | ✗       | ✗        | ✗      | ✗       | ✗      | ✗     | ✗        | ✗          | ✗                  | ✗       | ✗           | ✗         | ✗      | ✗     | ✗        | ✗       | ✗      | ✗         | ✗      | ✗        | ✗    | ✗        | ✗                 | ✗       |           |

<sup>1</sup> Source: ILO. As of December 2005.

<sup>2</sup> Conventions that have been largely or wholly replaced by more recent conventions, or those that did not come into force, have been omitted.

<sup>3</sup> ✓ = ratified; ✗ = not ratified; D= Denounced, that is Ratified then later withdrawn from ratification (usually due to a new convention that revises the original).

PRI Environmental and Social Guideline

| Convention (Title & Number)                          | Argentina | Bahamas | Barbados | Belize | Bolivia | Brazil | Chile | Colombia | Costa Rica | Dominican Republic | Ecuador | El Salvador | Guatemala | Guyana | Haiti | Honduras | Jamaica | Mexico | Nicaragua | Panama | Paraguay | Peru | Suriname | Trinidad & Tobago | Uruguay | Venezuela |
|--|-----------|---------|----------|--------|---------|--------|-------|----------|------------|--------------------|---------|-------------|-----------|--------|-------|----------|---------|--------|-----------|--------|----------|------|----------|-------------------|---------|-----------|
| Social Security                                      |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Social Security (Minimum Standards) (102)            | X         | X       | ✓        | X      | ✓       | X      | X     | X        | ✓          | X                  | ✓       | X           | X         | X      | X     | X        | X       | ✓      | X         | X      | X        | ✓    | X        | X                 | X       | ✓         |
| Sickness Insurance (Industry) (24)                   | X         | X       | X        | X      | X       | X      | ✓     | ✓        | X          | X                  | ✓       | X           | X         | X      | ✓     | X        | X       | X      | ✓         | X      | X        | ✓    | X        | X                 | D       | X         |
| Medical Care and Sickness Benefits (130)             | X         | X       | X        | X      | ✓       | X      | X     | X        | ✓          | X                  | ✓       | X           | X         | X      | X     | X        | X       | X      | X         | X      | X        | X    | X        | X                 | ✓       | ✓         |
| Maternity Protection (183)                           | X         | X       | X        | X      | X       | X      | X     | X        | X          | X                  | X       | X           | X         | X      | X     | X        | X       | X      | X         | X      | X        | X    | X        | X                 | X       | X         |
| Maternity Protection (3)                             | ✓         | X       | X        | X      | X       | D      | D     | ✓        | X          | X                  | X       | X           | X         | X      | X     | X        | X       | X      | ✓         | ✓      | X        | X    | X        | X                 | D       | ✓         |
| Maternity Protection (Revised) (103)                 | X         | ✓       | X        | ✓      | ✓       | ✓      | ✓     | X        | X          | X                  | ✓       | X           | ✓         | X      | X     | X        | X       | X      | X         | X      | X        | X    | X        | X                 | ✓       | ✓         |
| Special Provisions by Category of Persons            |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Minimum Age (138)                                    | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | X     | ✓        | ✓       | X      | ✓         | ✓      | ✓        | ✓    | X        | ✓                 | ✓       | ✓         |
| Worst Forms of Child Labor (182)                     | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | X     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | X        | ✓                 | ✓       | ✓         |
| Night Work of Young Persons (Industry) (6)           | ✓         | X       | X        | X      | X       | ✓      | ✓     | ✓        | X          | X                  | X       | X           | X         | X      | X     | X        | X       | D      | ✓         | X      | X        | X    | X        | X                 | D       | ✓         |
| Night Work of Young Persons (Industry) (90)          | ✓         | X       | ✓        | X      | ✓       | X      | X     | X        | ✓          | ✓                  | X       | X           | ✓         | X      | ✓     | X        | X       | ✓      | X         | X      | ✓        | ✓    | X        | X                 | ✓       | X         |
| Medical Examination of Young Persons (Industry) (77) | ✓         | X       | X        | X      | ✓       | X      | X     | X        | X          | ✓                  | ✓       | ✓           | ✓         | X      | ✓     | X        | X       | X      | ✓         | ✓      | ✓        | ✓    | X        | X                 | ✓       | X         |
| Night Work (Women) (Revised) (89)                    | X         | X       | X        | ✓      | ✓       | ✓      | X     | X        | ✓          | D                  | X       | X           | ✓         | X      | X     | X        | X       | X      | X         | ✓      | ✓        | X    | X        | X                 | D       | X         |
| Underground Work (Women) (45)                        | ✓         | ✓       | X        | X      | ✓       | ✓      | D     | X        | ✓          | ✓                  | ✓       | X           | ✓         | ✓      | ✓     | ✓        | X       | ✓      | ✓         | ✓      | X        | D    | X        | X                 | D       | ✓         |
| Plantations (110)                                    | X         | X       | X        | X      | X       | D      | X     | X        | X          | X                  | ✓       | X           | ✓         | X      | X     | X        | X       | ✓      | ✓         | ✓      | X        | X    | X        | X                 | ✓       | X         |
| Employment and Occupation Discrimination (111)       | ✓         | ✓       | ✓        | ✓      | ✓       | ✓      | ✓     | ✓        | ✓          | ✓                  | ✓       | ✓           | ✓         | ✓      | ✓     | ✓        | ✓       | ✓      | ✓         | ✓      | ✓        | ✓    | X        | ✓                 | ✓       | ✓         |
| Indigenous and Tribal Populations (107)              | D         | X       | X        | X      | D       | D      | X     | D        | D          | ✓                  | D       | ✓           | X         | X      | ✓     | X        | X       | D      | X         | ✓      | D        | D    | X        | X                 | X       | X         |
| Indigenous and Tribal Peoples (169)                  | ✓         | X       | X        | X      | ✓       | ✓      | X     | ✓        | ✓          | X                  | ✓       | X           | ✓         | X      | X     | ✓        | X       | ✓      | X         | X      | ✓        | ✓    | X        | X                 | X       | ✓         |
| Migration for Employment (97)                        | X         | ✓       | ✓        | ✓      | X       | ✓      | X     | X        | X          | X                  | ✓       | X           | ✓         | ✓      | X     | X        | ✓       | X      | X         | X      | X        | X    | X        | ✓                 | ✓       | ✓         |
| Migrant Workers’ (Suppl.) (143)                      | X         | X       | X        | X      | X       | X      | X     | X        | X          | X                  | X       | X           | X         | X      | X     | X        | X       | X      | X         | X      | X        | X    | X        | X                 | X       | ✓         |
| Provisions by Economic Sector                        |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Hours of Work & Rest Periods (Road Transport) (153)  | X         | X       | X        | X      | X       | X      | X     | X        | X          | X                  | ✓       | X           | X         | X      | X     | X        | X       | ✓      | X         | X      | X        | X    | X        | X                 | ✓       | ✓         |
| Dock Work (137)                                      | X         | X       | X        | X      | X       | ✓      | X     | X        | ✓          | X                  | X       | X           | ✓         | X      | X     | X        | X       | X      | ✓         | X      | X        | X    | X        | X                 | ✓       | X         |
| Temp. Workforce Accommodation                        |           |         |          |        |         |        |       |          |            |                    |         |             |           |        |       |          |         |        |           |        |          |      |          |                   |         |           |
| Radiation Protection (115)                           | ✓         | X       | ✓        | ✓      | X       | ✓      | ✓     | X        | X          | X                  | ✓       | X           | X         | ✓      | X     | X        | X       | ✓      | ✓         | X      | ✓        | X    | X        | X                 | ✓       | X         |



## 2. INTERNATIONALLY RECOGNIZED CORE LABOR RIGHTS

The International Labour Organization (ILO) has identified the following group of standards as the “fundamental principles and rights at work”: (1) freedom of association and the right to organize and bargain collectively; (2) elimination of all forms of forced or compulsory labor; (3) effective abolition of child labor; and (4) the elimination of discrimination in employment and occupation. The ILO has determined that the respect, promotion, and realization of these rights and principles is a necessary precondition for the exercise of all other labor rights. Observing these core labor rights, in particular the freedom of association and the right to organize and bargain collectively, establishes a foundation for ensuring that the benefits of economic growth are shared throughout society. Respect for these rights thus contributes to greater socio-political harmony and sustainable development.

The basic labor rights and principles are contained in eight multilateral treaties drafted under auspices of the ILO. The ILO has characterized these treaties as the “fundamental” or “core” conventions. The core conventions are freedom of association and protection of the right to organize (Convention number 87), the right to organize and collectively bargain (Convention number 98), forced labor (Convention number 29), abolition of forced labor (Convention number 105), equal remuneration (Convention number 100), employment and occupation discrimination (Convention number 111), minimum age (Convention number 138), and the worst forms of child labor (Convention number 182). The United Nations has underlined the importance of these conventions by characterizing them as “essential for securing human rights in the workplace” and as “international human rights instruments.”

### 2.1 Freedom of Association and the Right to Organize and Bargain Collectively

Freedom of association and the right to organize and bargain collectively commonly are referred to as “trade union rights.” These rights are expressly mentioned in the Universal Declaration of Human Rights<sup>1</sup> and are characterized by the ILO as “a combination of all the rights and freedoms that are essential for the existence and efficient functioning of democratic trade unions capable of defending and furthering the interests of workers.”<sup>2</sup> The singular importance of freedom of association among the fundamental labor rights is expressed by the ILO as follows: “It is a prerequisite for progress towards social justice; it enables workers to give expression to their aspirations; it strengthens their position in collective bargaining by re-establishing a balance in the strength of the parties; it constitutes a healthy counterweight to the power of the State, by enabling labour to participate in the framing and carrying to of economic and social policies [and] is essential for...co-operation on equal footing between workers, employers and governments.”<sup>3</sup>

ILO Convention 87 on Freedom of Association and Protection of the Right to Organize prescribes that workers have the right to establish unions or to join organizations of their own choosing, without prior authorization, with a view to furthering and defending their respective interests. Worker organizations have the right to draw up their own constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities, and to formulate their own programs without employer or other outside interference. Freedom of association recognizes the right of workers to choose freely a form of organization to represent their interests collectively. The right of freedom of association also recognizes that workers have the right to choose not to

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<sup>1</sup> “Everyone has the right to form and to join trade unions for the protection of his interests.” Article 23, Universal Declaration of Human Rights, adopted and proclaimed by United Nations General Assembly Resolution 217 A (III) of 10 December, 1948. <http://www.un.org/Overview/rights.html>.

<sup>2</sup> International Labour Office, *International Labour Standards: A Worker’s Education Manual*, 4th (revised) edition (Geneva: International Labour Office, 1998), 109.

<sup>3</sup> Ibid.

establish or join a union or other form of representative organization, so long as the decision is undertaken free of outside pressure or coercion concerning the workers' continued job status, promotion, or hiring.<sup>4</sup>

ILO Convention 98 on the Right to Organize and Collective Bargaining is directed at protecting workers in exercising the right to organize and at promoting voluntary collective bargaining. The convention provides that workers should enjoy adequate protection against acts of anti-union discrimination, in particular from employer acts or omissions causing the refusal to hire workers or the dismissal, demotion, or any other prejudice toward workers because of trade union affiliation or activities. The convention stipulates that worker organizations are to be protected against acts of interference that promote the domination, financing, or control of such organizations by employers or employer organizations. Although conventions 87 and 98 do not mention the right to strike, ILO jurisprudence over many decades has established that the right to strike is understood to be an essential element of freedom of association.<sup>5</sup>

Although not included in the list of "core conventions," ILO conventions 135 on Workers' Representatives and 154 on Collective Bargaining also apply to the exercise of freedom of association and the right to organize and collective bargaining. Convention 135 provides that worker representatives (whether trade union representatives or other representatives elected by workers) shall be protected from any prejudicial acts by employers based on their status or activities as representatives, and also provides that they shall be afforded facilities at the project to carry out their representative functions. Convention 154 prescribes that collective bargaining extends to all negotiations taking place between an employer, a group of employers, or one or more employer organizations and one or more labor organizations for determining working conditions and terms of employment, regulating relations between employers and workers, and regulating relations between employer organizations and worker organizations.

## Requirements

### ***Convention 87: Freedom of Association and Protection of the Right to Organize, 1948***

1. Workers have the right without prior authorization to establish or join a representative organization<sup>6</sup> of their choosing (Article 2).
2. Workers have the right to decide the rules, elect their own representatives, and organize their own administration and activities for the representative organizations they establish or join (Article 3).
3. Worker organizations shall not be dissolved by administrative authorities (Article 4).
4. In exercising their associational and organizational rights, workers and their organizations must respect national law.
5. Worker organizations have the right to establish and join national worker federations and confederations. These federations and confederations have the right to affiliate with international worker organizations (Article 5).
6. Workers are protected against anti-union discrimination activities or omissions, and in particular against acts or omissions that condition employment status on membership or participation, or relinquishing membership or participation in a union or in union activities (Article 1).
7. Project management should encourage and promote measures for voluntary negotiation of employers and employer organizations with worker organizations with a view to regulating employment terms and conditions through use of collective bargaining agreements.

<sup>4</sup> However, see *Report of the Committee of Experts on the Application of Conventions and Recommendations*, Report III (Part 1A), International Labour Organization, 90<sup>th</sup> Session, 2002, p. 360 (expressing concerns about use of direct pacts by nonunionized workers with employers in Costa Rica and stating that ILO instruments envisage direct negotiation between an employer and workers' representatives only in the absence of trade union organizations).

<sup>5</sup> *International Labour Standards Worker's Manual*, 116–17.

<sup>6</sup> *Organization* means any organization of workers or of employers for furthering and defending the interests of workers or employers (ILO Convention 87, Article 10).

## Requirements of Additional Related Conventions not Part of the “Core Conventions”

### *Convention 154: Collective Bargaining Convention, 1981*

1. Collective agreements between employers/employer organizations and worker organizations shall be encouraged by the project (Article 5).
2. The subject matter of collective bargaining extends to all negotiations for: (a) determining working conditions and employment terms, (b) regulating relations between employers and workers, and (c) regulating relations between employers/employer organizations and worker organizations.

### *Convention 135: Workers’ Representatives, 1971*

1. Workers’ representatives shall enjoy protection against any prejudicial acts, including dismissal, relating to their status or activities as worker representatives, so long as the activities of the worker representatives conform with national law, collective agreements, or other jointly agreed employer-worker organization arrangements (Article 1).
2. The project shall make facilities available to worker representatives at the workplace to enable them to carry out their representation functions promptly and efficiently.
3. *Worker representative* means a person recognized as a worker representative under national law or practice, whether they are (a) a trade union representative elected by the union or the union members; or (b) an elected representative who is freely elected by the workers in accordance with national law or collective bargaining agreements and whose functions do not include activities that, under national law, are the exclusive prerogative of trade unions.
4. When a project has both trade union representatives and elected representatives, it must not engage in acts or omissions that would enable the elected representative(s) to be used to undermine the position of the trade union(s) or its representative(s), and also shall create conditions to encourage cooperation on worker representation issues between the trade union representative(s) and elected representative(s).

**Table 2.1 Requirements Related to Freedom of Association and Protection of Right to Organize and Bargain Collectively**

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
| <b>Convention 87: Freedom of Association and Protection of Right to Organize, 1947</b>  |   |  |
| Workers have the right to establish or join a worker organization of their choosing without prior authorization.<br>Workers decide the rules, elect their representatives, and organize the administration or their representative organization.<br>Worker organizations cannot be dissolved by administrative authorities. | Are workers free to form or join a worker organization at the project, without prior authorization, if they choose to do so?<br>What types of worker organizations exist at the project? Have workers ever attempted in the past to form worker organizations? If so, what are the details?<br>Have workers received legal, financial, or other assistance from the company or anyone else in setting up, selecting representatives, or administering any worker organization(s)? | Percentage of facility workers organized on the project, compared with percentages for workers at other projects in the same industry sector, as well as generally for worker organizations in the region and in the nation.<br>The project “union” or other worker representative organization, such as a <i>solidarismo</i> association, was created initially by the employer or the government “for the workers.” <sup>7</sup> |

<sup>7</sup> The ILO has found that employers have used *solidarismo/solidarista* associations (company-supported credit unions) to undermine exercise of freedom of association. Employer-created unions or similar organizations are not deemed valid expressions of freedom of association.

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
| In exercising their associational and organizational rights, workers and their organizations operate in accordance with national laws.                                  | <p>If a worker organization exists, has it developed its own constitution and rules or did project management provide assistance? If the latter, what assistance was provided?</p> <p>What is the status at the facility of organized versus unorganized workers in relation to job position, promotion history, gender, marital status, age, ethnicity, citizenship, and political party affiliation?</p> <p>Have any worker organizations ever been dissolved or suspended? If so, what were the circumstances?</p> <p>What kinds of worker organizations exist elsewhere in this industry sector, in the region, and in the country?</p> <p>What percentage of project workers are organized? If none, why are there no worker organizations at this project?</p> <p>Does the company have a policy on freedom of association, and how is it applied?</p> <p>Are there any project rules concerning when or whether a worker can join or hold office in a worker organization?</p> <p>Does the project provide workers with guidance on how to exercise freedom of association or in selecting a representative organization?</p> <p>Do any project rules restrict certain individuals from running in a worker election or holding office as a worker representative?</p> <p>Do project workers have the right to strike?</p> <p>Have there been any work stoppages (<i>paros</i>) or strikes (<i>huelgas</i>), either legal or illegal, at the project? If so, what were the reasons and how were disputes resolved?</p> | <p>List of all worker attempts to organize at the project and list of worker organizations that have existed at the Project and in the region over the past 10 years. If an organization no longer exists, documentation on how it was terminated or dissolved.</p> <p>Official government documentation confirming whether project workers or their organizations have been subject to civil or criminal proceedings related to organizational and associational activities at the project.</p> <p>Evidence establishing whether project management has/has not influenced worker representative elections through financing, coercion, or other means.</p> <p>Review of worker contracts reveals that contracts contain “no work stoppage” or “no strike” clauses.</p> <p>Information indicates that project management sought to end a strike through violence and intimidation.</p> <p>The company’s Code of Conduct or other official policy documents expressly recognize the right to freedom of association. This information is openly conveyed to workers and is posted in a public place.</p> <p>Information on the occurrence of strikes at the project and how these are handled by management.</p> |
| Worker organizations are free to join national federations or confederations.   | <p>Are worker organizations affiliated to a national federation or confederation?</p> <p>What is the reason for such an affiliation or lack of such affiliation?</p>  | Documentation affirming worker organization’s affiliation to national federations or confederations.   |
| <b>Convention 98: Right to Organize and Collective Bargaining, 1949</b>   |   |  |
| Workers shall not be subject to anti-union discrimination, including acts or omissions by employers that relate employment status to union membership or participation. | <p>Are job applicants asked if they are members of a union or other type of worker representative organization?</p> <p>Has any worker been told not to join a union as a condition for taking a job or retaining employment?</p> <p>Has a worker’s membership or status as an</p>   | <p>There is a standard documented complaints procedure, conveyed orally and in writing to workers and management that enables aggrieved individuals to register complaints concerning anti-union acts or omissions.</p> <p>Project maintains a list documenting worker complaints, internal proce-</p>   |
| Project should encourage voluntary negotiations between worker  |   |  |

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| organizations and employer for regulating employment terms and conditions through collective bargaining.   | <p>office holder in a union or other worker organization ever had an impact on the worker's job/task assignment, or promotion or removal from a particular job/task?</p> <p>Are there any project logs/registers naming workers who are members of a worker organization?</p> <p>Has any worker been fired because of joining a workers' organization or due to participating in a strike, protest, or other associational or organizational activity?</p> <p>Is there an established policy to reinstate union members and union leaders to their prior employment positions at the project, when it is determined that they were dismissed unjustly due to union-related activities or affiliations?</p> <p>Have any workers been rehired following a determination that their dismissal was unjust due to union affiliation?</p> <p>Does project management deduct union dues from union member's paychecks?</p> <p>Does project management engage in collective bargaining? If not, why?</p> | <p>dures, and legal actions taken by workers and management concerning alleged acts of anti-union practices.</p> <p>Project has an organizational chart/breakdown listing all workers, with their job titles and duties, pay levels, and union or other representational affiliation. See if the chart/list reveals noticeable differences in pay, titles, and duties between organized vs. non organized or union-organized vs. nonunion-organized workers at the project, especially between workers performing the same or similar functions.</p> <p>Employment contracts of workers do/don't contain language restricting collective bargaining.</p> <p>Information reveals that project management discourages collective bargaining.</p> <p>Information reveals that terms of a collective bargaining agreement were not freely and voluntarily negotiated by workers.</p> <p>Evidence confirming that the workers were reinstated to their previous positions after firings due to employer anti-union behavior.</p> <p>Certified documentation from judicial and labor authorities demonstrating the existence or nonexistence of complaints lodged about anti-union behavior.</p> |
| <b>Convention 154: Collective Bargaining Convention, 1981</b>  |  |  |
| <p>Collective bargaining should be encouraged by the project.</p> <p>The subject matter of collective bargaining extends to all negotiations for determining working conditions and employment terms and regulating employer-employee relations.</p> | <p>Does management generally exercise or encourage collective bargaining?</p> <p>Is there a collective agreement in place at present? If not, why not?</p> <p>What are the subjects covered in the collective agreement?</p> <p>How often are collective agreements negotiated?</p> <p>What procedures were used by management and workers for negotiating the most recent collective agreement and who participated in those negotiations?</p>  | <p>Review subject matter of collective agreements and labor contracts on file, and request documentation indicating frequency of renewal of collective agreements at the project.</p> <p>Percentage of workers familiar with the collective agreement, if one is in place. If few workers are familiar with the contents or even the existence of the collective agreement, this may indicate that the workers did not negotiate the agreement freely or voluntarily.</p>  |

| Convention Requirements  | Questions   | Indicators   |
|--|---|--|
| <b>Convention 135: Workers' Representatives, 1971</b>  |   |  |
| <p>Worker representatives are protected against prejudicial acts concerning their status or activities as worker representatives, so long as their activities conform with national law, the collective agreement, or other employer-worker arrangements.</p> <p>Project provides worker representatives with facilities at the workplace to undertake their representational activities.</p> <p>When a project has both union and nonunion elected representatives, nonunion representatives are not used to undermine the position of union representatives.</p> | <p>What types and policies and procedures are in place to protect worker representatives against prejudicial acts?</p> <p>How are these policies implemented?</p> <p>Have any worker complaints been addressed to management or to local judicial or ministerial authorities alleging anti-union behavior by management or management's agents?</p> <p>Do worker representatives have designated "on-premises" facilities to conduct their representative activities?</p> <p>Who are the project worker representatives, what are their job titles and duties, and pay levels?</p> <p>Does management encourage workers to address their project employment concerns with one worker representative organization rather than another? If so, why?</p> | <p>An established written policy, which has been conveyed to both management and workers, affirming the company's position on prejudicial acts against worker representatives; and an accompanying list signed by all workers and by management confirming that the policy and procedures have been conveyed to each individual worker and manager.</p> <p>List of any complaints made to management regarding anti-union behavior and documentation confirming how management responded to the complaint, including information on corrective actions taken, if any.</p> <p>Certified statements from judicial and labor ministerial authorities confirming existence or nonexistence of complaints or reports about anti-union behavior at the facility.</p> |

### Documents Needed

1. Copy of collective bargaining agreement (if existing)
2. Copy of project policy on associational, organizational, and collective bargaining rights and the implementation of those rights
3. Copies of employment contracts for all classifications of workers
4. Written policies and procedures demonstrating the project's position on prohibiting prejudicial acts against worker representatives, and an accompanying list signed by all workers and management confirming that the policy and procedures have been conveyed to each individual worker and manager.
5. Certified statements from judicial and labor ministerial authorities confirming existence/nonexistence of complaints or reports lodged about anti-union behavior at the facility.
6. List of any complaints made to management about anti-union behavior, and documentation confirming how management responded to the complaint, including information on corrective actions taken, if any.

### Site Visit

Conduct confidential interviews with:

1. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine the status accorded to associational, organizational, and collective bargaining rights at the project and in the locale.
2. A representative sampling (offsite wherever possible) of rank-and-file union or other worker organization members to obtain their views on (a) the respect for associational, organizational, and

collective bargaining rights at the project; (b) management's handling of worker attempts to form unions/representative organizations, including whether threats of violence or dismissal were used; and (c) whether worker representative organizations are truly freely elected and independent of project financial or other influence or control.

3. Non organized workers, (offsite wherever possible) to obtain input about (a) why they are not organized; (b) the respect for associational, organizational, and collective bargaining rights at the project; (c) management's handling of worker attempts to form unions/representative organizations, including whether threats of violence or dismissal were used; and (d) whether worker representative organizations truly are freely elected and independent of project financial or other influence or control.
4. Trade union and/or other worker organization representatives (offsite wherever possible) concerning (a) respect for associational, organizational, and collective bargaining rights at the project; (b) negotiation of the most recent collective agreement; (c) management's handling of worker attempts to form unions/representative organizations, including whether threats of violence or dismissal were used; and (d) whether worker representative organizations truly are freely elected and independent of financial or other influence or control.
5. Selected members of project management (offsite wherever possible) regarding (a) the respect for associational, organizational, and collective bargaining rights at the project; (b) management's handling of worker attempts to form unions/representative organizations, including whether threats of violence or dismissal were used; and (c) whether worker representative organizations truly are freely elected and independent of financial or other influence or control.

### **Best Practices**

1. Promote use of collective bargaining with freely elected worker representatives to regulate terms and conditions of employment.
2. Allow workers to attend union meetings during work hours.
3. Allow trade union representatives to attend union/workers-organization activities during work hours.
4. Post basic information on working conditions and on exercise of associational, organizational, and collective bargaining rights in a non-threatening public place, accessible to all workers and management at the worksite in the language(s) of the workers and managers.
5. Hold meetings every six months (at a minimum) of management, worker representatives, workers, local human rights NGOs, and chambers of commerce to promote respect for exercise of freedom of association, organizational, and collective bargaining rights in conformance with national law and ILO convention requirements and recommendations.
6. Establish a mechanism within the project whereby workers and/or their freely elected representatives can present information about alleged violations of associational, organizational, and collective bargaining rights.

## **2.2 Abolition of Forced Labor**

Forced labor is often associated with conditions whereby the individual is not at liberty, due to legal or actual physical restraints, to leave the worksite. These circumstances traditionally are associated with "slavery" or "prison labor." The ILO and other authorities on the subject note, however, that today the scope of forced labor is much broader than the conventional categories and includes more-subtle forms of involuntary labor, such as

requirements to work overtime under threat of job loss, physical violence, and other practices whereby employers extend loans to workers under conditions that lead to debt bondage.<sup>8</sup>

The ILO has identified three elements that characterize forced or compulsory labor in the contemporary context: (1) loss of free will, (2) use or threat of force, and (3) economic exploitation. The two principal ILO conventions addressing forced and compulsory labor are Convention 29 on Forced Labor, and number 105 on the Abolition of Forced Labor.

ILO Convention 29 is the most widely ratified of all of the ILO core conventions, and under its terms, ratifying countries agree to “suppress the use of forced or compulsory labor in all its forms within the shortest possible period.” Convention 29 defines forced labor as, “all work or service which is exacted from any person under the menace of any penalty for which the said person has not offered himself voluntarily.”<sup>9</sup> The convention does include specific exceptions under which work is not considered “forced” or “compulsory,” such as in military service, to fulfill certain civic obligations, under prison terms,<sup>10</sup> or during natural disasters or emergencies.<sup>11</sup>

Convention 105 expands the scope for prohibition of forced labor, including work performed pursuant to a court conviction. It proscribes any form of forced or compulsory labor that is employed for political coercion, political education, or punishment for expression of ideological views; workforce mobilization for economic development; labor discipline; punishment for participation in strikes; or racial, social, national, or religious discrimination.

## Requirements

### ***Convention 29: Forced Labor, 1930***

1. Forced and compulsory labor for the benefit of private individuals, companies and associations is prohibited (Article 4).
2. Forced and compulsory labor granted as a concession to private individuals, companies, and associations is prohibited (Article 5).

### ***Convention 105: Abolition of Forced Labor, 1957***

1. Forced and compulsory labor must not be used for political coercion or punishment for holding or expressing political or ideological views; labor discipline; punishment for having participated in strikes; or racial, social, national, or religious discrimination (Article 1).

<sup>8</sup> For example, see K. Bales, *Disposable People: New Slavery in the Global Economy* (Berkeley: University of California Press, 1999); K. Bales, “The Social Psychology of Modern Slavery,” *Scientific American*, 286 no. 4 (2002): 80–88; and U.K. Department for International Development, “Draft Guidelines on Implementing Labor Standards in Construction” (2002), 7.

<sup>9</sup> International Labour Organization, Convention 29, Forced Labor, Article 2.1. (1930).

<sup>10</sup> Over the years, the ILO has maintained a very firm stance that, to avoid being forced labor, work performed pursuant to conviction in a court of law must not be carried out for or be supervised by private persons or entities. Thus the ILO continues to frown upon the privatization or the private operation of prison facilities.

<sup>11</sup> Pursuant to Convention 29, “forced” or “compulsory” labor does not include work or service that is

- a. Of purely military character and exacted in virtue of compulsory military service
- b. Part of normal civic obligations (e.g., jury duty) or is a minor communal service of citizens
- c. Exacted due to conviction in a court of law, so long as the work or service is carried out only under the supervision and control of a public authority and the individual is not placed at the disposal of private parties or companies
- d. Exacted in cases of natural disaster or other public emergency.



**Table 2.2. Requirements Related to Forced Labor**

| Convention Requirements   | Questions   | Indicators  |
|---|---|---|
| <b>Convention 29: Forced Labor, 1930</b>  |   |   |
| Forced and compulsory labor for the benefit of private individuals, companies, and associations is prohibited.  | <p>Has the project ever used labor provided under concession from governmental authorities or private parties?</p> <p>Is any laborer serving time for conviction of a crime, as a penalty, or for another involuntary reason?</p> <p>What procedures have been established to prevent use of forced labor?</p> <p>What procedures are in place to prevent use of forced labor by contractors?</p> | <p>Number of work hours and payments for all project workers accords with international and national laws.</p> <p>Information from local human rights, church, or other groups reveals that it is a common practice in the locale for prison labor to be assigned to work duties at private facilities.</p> |
| Forced and compulsory labor granted as a concession to private individuals, companies, and associations is prohibited.  | <p>What kinds of labor concessions has the host country government granted to the project?</p> <p>Do any labor concessions involve use of workers paying off debts or serving time for penalties for court convictions?</p>   | <p>A register exists of all labor concessions received by the project.</p> <p>Host country law exists on labor concessions, particularly on provision of prison or other compulsory labor.</p>  |
| <b>Convention 105: Abolition of Forced Labor, 1957</b>  |   |   |
| Forced and compulsory labor must not be used as a means of labor discipline, as a punishment for participation in strikes, nor as a means of racial, social, national, or religious discrimination. | <p>What disciplinary measures, if any, are taken if the workforce, or part of it, participates in strikes?</p> <p>Are some workers from minority groups required to work longer hours than or receive lower pay for the same amount of work as other workers?</p> <p>Are any workers from minority groups required to work for free, either full-time or for shorter periods?</p>                 | <p>All extra hours are remunerated according to the official payment schedule for overtime.</p> <p>Indications of use of pay docking, physical punishment, or additional labor because workers participated in strikes or are from minority groups.</p>   |

### Documents Needed

1. Copies of any grievances reported to the project or to governmental authorities about forced or other involuntary labor practices at the worksite or in the region
2. Hiring and employment records, wage records, and registration of working hours
3. Names and addresses of recruiting agencies for all workers
4. Records or other documentation from judicial and labor ministerial authorities confirming existence or nonexistence of complaints or reports registered about security deposits, submission of identity papers, forced overtime, debt-payment labor, job-connected punishment, or any other coercive or involuntary practices at the project

5. Copy of project policy and procedures, prohibiting all forms of forced or involuntary labor, including prohibition of forced labor to impose discipline for strikes or punish minority group workers.
6. Copies of accepted contractor bids, including the number of workers and wage paid for each bid task.

### Site Visit

1. Observe transportation to and from worksite daily to determine if workers are coming from prisons, detention camps, or other confined places.
2. Find out if the project contractor has used forced or compulsory labor in the past.
3. Note the placement of prisons and disciplinary institutions in the region.
4. Get detailed information on any deductions in salary.
5. Conduct confidential interviews with
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce to see if any involuntary labor conditions exist at the project and in the area
  - b. A representative sample of project workers, both union organized and non organized (offsite wherever possible), to obtain their input on working conditions and practices, including use of punishment for labor discipline or discrimination
  - c. Trade union and/or other worker organization representatives (offsite wherever possible), concerning involuntary labor conditions and practices at the project, including use of punishment for labor discipline or discrimination
  - d. Selected members of project management (offsite wherever possible), about the existence of any involuntary labor conditions and practices at the worksite.

### Best Practices

1. Maintain transparent procedures for decisions about work hours, overtime, and wage deductions.
2. Conduct frequent onsite monitoring of contractors and suppliers to ensure they are not using any laborers procured through debt bondage, penalties from criminal convictions, or other involuntary circumstances. Such monitoring entails not only site observation of the workforce, but also spot interviews with laborers and reviews of all laborer identification cards and work documents supplied to employers.
3. Conduct confidential interviews with
  - a. Local human rights NGOs, church representatives, academics, and business leaders to see if any involuntary labor conditions or practices exist at the Project or in the area
  - b. A representative sample of project workers (offsite wherever possible), including contractor and subcontractor workers, non unionized and unionized workers (if a union exists), male and female workers, as well as workers from different ethnic, religious, racial, national origin, or social groups working for the Project to see whether
    - i. Workers must pay a security deposit or deposit passports or other identity papers with Project management as a condition for work
    - ii. Forced labor conditions or practices exist, including threats of penalties, use of physical or sexual intimidation, or punishment as means for labor discipline
    - iii. Overtime conditions are explained clearly, orally and in writing, and if workers are forced to work overtime;
    - iv. Terms and conditions of contract terminations are explained clearly, orally and in writing, to all workers.
  - c. Trade union and/or other worker organization representatives (offsite wherever possible), about any involuntary labor conditions or practices at the project, including threats of penalties, use of physical or sexual intimidation, or punishment to impose labor discipline.
  - d. Selected members of Project management (offsite wherever possible), concerning existence of any Involuntary labor conditions or practices, including threats of penalties, use of physical or sexual intimidation, or punishment to impose labor discipline.

## 2.3 Equality of Opportunity and Treatment (Nondiscrimination)

Equality of opportunity and treatment, or “nondiscrimination,” remains a fundamental, if at times elusive, employment objective. The ILO’s 1919 constitution characterizes observance of equal opportunity and treatment as being “of special and urgent importance.” ILO analysis presumes that discrimination exists in every nation, and then sets out to pinpoint the problem and encourage government remedial action. The normative standard of “equality of treatment and opportunity” contains two central components. The first is ensuring that women and men receive the same remuneration for equal or equivalent work, as articulated in Equal Remuneration Convention 100. The second is ensuring that all workers receive the same hiring and job employment opportunities and treatment regardless of gender, race, ethnicity, national origin, religion, political affiliation, or other status, as specified in Employment and Occupation Discrimination Convention 111. This convention focuses not only on inequality in employment outcomes, but also on the factors that determine inequality in employment, such as systemic, de facto discriminatory conditions in worker education and vocational training. Actual intent to discriminate is not an element of “discrimination” under Convention 111. Instead the convention focuses on remedies to discriminatory outcomes.

The types of hiring and workplace discrimination that the ILO and other United Nations organs<sup>12</sup> seek to address include (but are not necessarily limited to) those that relate to the following:

- race<sup>13</sup>
- ethnicity or ethnic origin
- indigenous or tribal status<sup>14</sup>
- pregnancy or parental status<sup>15</sup>
- gender<sup>16</sup>
- migrant or immigrant status<sup>17</sup>
- citizenship or nationality
- religion
- social origin
- political opinion or affiliation, including trade union status
- social background or origin
- sexual orientation
- HIV/AIDS status<sup>18</sup>
- disability or handicap<sup>19</sup>
- older age<sup>20</sup>

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<sup>12</sup> See for example the “Declaration and Programme of Action of the World Conference against Racism, Racial Intolerance, Xenophobia, and Related Intolerance” (Durban, South Africa, September 2001), at [www.un.org](http://www.un.org).

<sup>13</sup> See for example United Nations International Convention on the Elimination of All Forms of Racial Discrimination (adopted 1965).

<sup>14</sup> See for example ILO Indigenous and Tribal Peoples Convention 107 (1957); ILO Indigenous and Tribal Peoples Convention 169 (1989); and the Draft United Nations Declaration on the Rights of Indigenous Peoples, adopted in 1994 by the UN Commission on Human Rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities [34 ILM 541 (1995)].

<sup>15</sup> See for example ILO Maternity Protection Conventions 2 (1919) and 103 (revised 1952).

<sup>16</sup> In addition to ILO Conventions 100 and 111, see also ILO Night Work Conventions 6 (1919), 41 (1934), and 89 (1948); and the United Nations Convention on the Elimination of All Forms of Discrimination against Women (adopted in 1979).

<sup>17</sup> ILO Migration for Employment Convention (Revised) 97 (1949); ILO Migrant Workers (Supplementary Provisions) Convention 143 (1975); United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted June 20, 2002).

<sup>18</sup> See ILO, “Code of Practice on HIV/AIDS and the World of Work,” (June 2001).

<sup>19</sup> See, for example, ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention 159 (1983).

At present, there is no generally agreed reliable method for determining whether wage gaps between men and women are due to discriminatory hiring or employment practices or related to other factors such as work performance, capacity, or experience. One method is to compare the wages received by women and men for equivalent work at the project. When large wage differentials correlated with gender exist, the reviewer should interview management, workers, and local civil society organizations such as human rights and church groups, in order to ascertain the basis for the discrepancy in remuneration and whether it constitutes discrimination within the meaning of ILO Conventions 100 and 111.

Employment discrimination exists not only in relation to obvious categories such as race or ethnicity, but also in less recognizable contexts, including mandatory testing for pregnancy or for HIV/AIDS in job applications or as a condition for retaining employment. For example, discrimination against pregnant women is a form of gender discrimination practiced in certain industry sectors in Central America and other parts of Latin America, and has been widely documented by international human rights organizations. Although this form of discrimination typically is illegal under national laws, common manifestations include requiring pregnancy testing for women, forcing women to take contraceptives or undergo sterilization as a condition of employment, or terminating employment of women found to be pregnant.

Additionally, some forms of employment discrimination such as religious bias may be extremely difficult to identify or quantify. Other forms of on-the-job discrimination can entail harassment by management or other workers or the preferential assignment by management of duties, work-shifts, or other factors that may occur daily but are not apparent to an outsider.

## Requirements

### ***Convention 100:Equal Remuneration, 1951***

The project must ensure all workers receive equal remuneration for work of equal or equivalent value, without discrimination based on gender (Article 1).

### ***Convention 111:Discrimination (Employment and Occupation), 1958***

1. Workers shall not be subject to distinction, exclusion, or preference on the basis of race, color, sex, religion, political opinion, national extraction, or social origin, leading to nullifying or impairing equality of opportunity or treatment in employment or occupation (Article 1).
2. Recruitment, pay, access to training courses, promotion, termination of employment, retirement, and every other aspect of the employment relationship must be made on the basis of equal opportunity or equal treatment regardless of race, color, gender, religion, political conviction, sexual preference, trade union membership, nationality, social background, disability, or handicap (Article 1).

### ***Proposed Convention 103 Concerning the Revision of Maternity Protection Convention (1952)<sup>21</sup>***

1. The project is prohibited from terminating employment of a woman during her pregnancy or during the period following her return to work, as prescribed by national laws or regulations, except on grounds unrelated to pregnancy or the birth of a child and its consequences or nursing (Article 7).
2. The project shall ensure that maternity is not a source of employment discrimination, and shall prohibit use of pregnancy certificates and pregnancy testing of job applicants except when the work in question is prohibited or restricted for pregnant or nursing women under national laws or regulations or when there is recognized or significant risk to the health of the women and the child (Article 8).

<sup>20</sup> Although ILO Convention 111 does not list older age as a category, the ILO has subsequently addressed the protection of older workers against employment discrimination in ILO Older Workers Recommendation Number 162 (1980).

<sup>21</sup> These provisions from the proposed convention are included because their language provides practical standards for ensuring adherence to the proscriptions on gender discrimination contained in ILO Conventions 100 and 111.

**Table 2.3 Requirements Related to Equality of Opportunity and Treatment**

| Convention Requirements  | Questions   | Indicators <sup>22</sup>  |
|--|---|---|
| <b>Convention 100: Equal Remuneration, 1951</b>  |   |   |
| Equal remuneration is provided to men and women workers for work of equivalent value, without discrimination based on gender.  | <p>Does the project have established policies and procedures to ensure equal remuneration for males and females?</p> <p>How are these policies and procedures conveyed to management and workers to ensure that everyone understands them?</p> <p>Have there ever been complaints or reports by workers or management concerning unequal remuneration based on gender? If so, how were these matters handled?</p> <p>What salaries do female workers receive compared with male workers engaged in the same or equivalent work?</p> <p>How is the monetary value of different work determined and defined?</p>  | <p>The ratio of average salary for males and females for work of equivalent value at the project, and the ratio of average salary for males and females for work of equivalent value in the industry sector generally and nationally.</p> <p><i>Equal Remuneration</i> is included as a term in the collective bargaining agreement, and in the individual contract of each worker.</p> <p>Wage slips and wage records of workers: discrepancies in pay between male and female workers, even after training, seniority, and previous work experience are considered, indicate possible gender discrimination in remuneration.</p>  |
| <b>Convention 111: Discrimination (Employment and Occupation), 1958</b>  |   |   |
| Workers shall not be subject to distinction, exclusion, or preference based on race, color, gender, religion, political opinion, national extraction, or social origin, leading to nullified or impaired equality of opportunity or treatment in employment or occupation. | <p>Does the project have established policies and procedures to prohibit distinction, exclusion, or preference in hiring, job terms and conditions, promotion, or retirement based on race, ethnicity, religion, social background, political affiliation, parental condition, gender, disability, sexual orientation, HIV/AIDS status, or age?</p> <p>How are these policies and procedures conveyed to management and workers to ensure that everyone understands them?</p> <p>Have any complaints or reports been made by workers or management at the project, local authorities, or civil society groups about discrimination or harassment based on any of the above factors? If so, how were these matters resolved?</p> <p>Are applicants for employment or currently employed workers asked about racial, social, or ethnic background; religious or political affiliation; age; parental condition; disability; sexual orientation; or HIV status? If so, for what reasons?</p> | <p>Ratio of women employed versus the national, regional, or sector ratio</p> <p>Ratio of women employed within the different areas of responsibility at the project.</p> <p>Ratio of ethnic, racial, and other minority workers compared with national, regional, or sector ratios.</p> <p>Ratio of ethnic, racial, and other minorities employed within the different areas of responsibility at the project.</p> <p>Salary for average project worker compared to that received by ethnic, racial, or other minority workers for work of equivalent value.</p> <p>Existence of job employment criteria that disproportionately restrict the opportunity or ability of women or minority workers to fill the positions.</p> <p>Certified documentation from judicial and labor ministerial authorities confirming the existence or absence of any</p> |

<sup>22</sup> The Questions and Indicators in the above table do not necessarily correspond to each individual convention requirement. Instead, the user should utilize a combination of the Questions and Indicators to determine whether an individual convention requirement is being observed.

| Convention Requirements  | Questions   | Indicators <sup>22</sup>  |
|--|---|---|
|  | <p>Are job applicants or current employees ever asked to take an HIV test? What action does management take if a worker or candidate tests “positive” for HIV?</p> <p>What is the number of women and men employed, and what are their respective areas of responsibility, broken down by individual worker and gender?</p> <p>How many workers from ethnic, racial, or other minorities are employed and for what areas of responsibility?</p> <p>What is the average salary for workers from each minority group compared to the average salary received by workers from the majority population for the same or equivalent work?</p> <p>Does the project keep a record of the citizenship of all its workers?</p> <p>Do all workers possess proper documentation permitting them to work legally in the country? How does the project ensure this?</p> <p>Is every worker permitted to observe their religious holidays without retribution or other negative acts from management or other employees? What project policies and procedures ensure this?</p> <p>What mechanisms are in place to ensure that contractors understand and comply with the project’s policies and procedures concerning non-discrimination in employment opportunity and treatment?</p> <p>Does project management monitor contractor hiring and employment practices to ensure such compliance? If so, how often?</p> | <p>registered complaints or reports concerning racial, ethnic, social, gender, citizenship, disability, political affiliation, religion, or other discriminatory hiring or employment practices at the project.</p> <p>An established policy and procedures to prohibit distinction, exclusion, or preference in hiring, job terms and conditions, promotion, or retirement based on any of the above factors.</p> <p>Nondiscrimination in employment opportunity and treatment is included in the terms and conditions of the collective bargaining agreement.</p> <p>Certified statement from each contractor confirming receipt, acceptance, and observance of project policies and procedures on nondiscrimination.</p> |
| <p>Recruitment, pay, access to training, promotion, termination of employment, retirement, and all other aspects of employment must be made on the basis of equal opportunity or equal treatment regardless of race, color, gender, religion, political conviction, trade union membership, nationality, or social background.</p> | <p>Does the project have procedures to implement policies for equal opportunity and equal treatment for any of the following: recruitment, pay, training, promotion, termination of employment, or retirement?</p>  | <p>Written policies and procedures on equal opportunity and treatment are conveyed to all workers, management, and contractors.</p> <p>and are enforced. Job vacancy announcements do not specify or imply race, gender, or other personal characteristics or status.</p>   |
| <b>Proposed Convention 103 Concerning Revision of Maternity Leave Convention, 1952</b>   |   |   |
| <p>The project is prohibited from terminating the employment of a woman during her pregnancy or</p>  | <p>How often has the project hired, or considered the application of, a pregnant worker?</p>  | <p>Complaints made to local governmental authorities, human rights NGOs, or trade union leaders regarding unfair</p>  |

| Convention Requirements  | Questions  | Indicators <sup>22</sup>   |
|--|--|--|
| during the period following her return to work, except on grounds unrelated to the consequences of pregnancy, childbirth, or nursing.  | <p>Is there a policy on pregnancy, maternity leave, and nursing?</p> <p>How is this policy conveyed to workers, management, contractors?</p> <p>Do pregnant workers normally return to work after their pregnancy and maternity leave? If not, why not?</p>  | <p>dismissal or discriminatory employment practices toward pregnant and nursing workers or workers on maternity leave.</p> <p>Policy and procedures prohibiting dismissal of pregnant and nursing workers and workers on maternity leave (except for grounds unrelated to pregnancy or childbirth) are effectively communicated to workers, management, and contractors.</p>   |
| The project shall ensure that maternity does not result in employment discrimination. Pregnancy certificates and pregnancy testing of job applicants shall be barred, except when the work in question is prohibited or restricted for pregnant or nursing women under national laws or regulations or where there is recognized or significant risk to the health of the women and the child. | <p>Are job applicants or currently employed workers asked about pregnancy, asked to take a pregnancy test, or asked to produce a pregnancy certificate?</p> <p>Has pregnancy or maternity status affected whether a person was selected for a job or task or permitted to continue with a job or task?</p> <p>Does the Project have a policy on pregnancy testing and production of pregnancy certificates as conditions for hiring or continued employment?</p> <p>Who determines whether a particular job or duty poses a recognized health and safety risk to pregnant women and their unborn children?</p> | <p>Project policies and procedures prohibiting discrimination because of pregnancy and prohibiting use of pregnancy tests or the production of pregnancy certificates are effectively conveyed to workers, management, contractors.</p> <p>Complaints made to local governmental authorities, human rights NGOs, or trade union leaders about discriminatory employment practices toward pregnant women, requests for pregnancy testing, or pregnancy certificates from job applicants.</p> <p>Qualified medical professionals in consultation with qualified project management determine whether a job duty poses a recognized risk to health or safety of pregnant women and their unborn children.</p> |

## Documents Needed

1. Copy of policies and procedures concerning equal remuneration and prohibiting discrimination in hiring, job terms and conditions, promotion, and retirement
2. Copy of project implementation plan to address and correct discriminatory situations
3. Copy of payroll sheet(s) for all workers, including worker names, job titles, and job responsibilities
4. Copy of policies and procedures to implement equal opportunity and equal treatment relating to recruitment procedures, pay, training, promotion, termination of employment, retirement, and other employment relationships
5. Certified documentation from judicial and labor ministerial authorities confirming the existence/absence of registered complaints or reports about racial, ethnic, social, gender, disability, political affiliation, or other discriminatory hiring or employment practices at the project
6. Certified statement from project management confirming that policies and procedures on nondiscrimination have been conveyed to each contractor/subcontractor and been observed as a legal condition for participation in the project
7. Certified statement from each contractor/subcontractor confirming receipt, acceptance, and observance of project policies and procedures on nondiscrimination as a legal condition for participation in the project

8. Copy of the collective bargaining agreement
9. Copies of all project job announcements
10. Copies of records of all rejected job applicants and statements of reasons why an applicant was rejected
11. Copies of records confirming that pregnant and nursing women receive benefits stipulated under national or local laws
12. Copies of Project policies establishing that production of pregnancy certificates, pregnancy testing or screening, and/or mandatory use of contraceptives or sterilization are prohibited conditions for hiring or continued employment

## Site Visit

1. Observe the overall environment, the relationship between workers and management, and general working conditions for the various types of workers during visits at worksites.
2. Evaluate the composition of the labor force, based on the various categories of project tasks and responsibilities. This should help detect possible unequal treatment in job responsibilities, work hours, or pay that may be connected to a worker's gender, race, political affiliation, or other status.
3. Compare the ethnic, religious, racial, social/political affiliation, and gender composition of the project labor force with that of the local population and of the communities from which workers have been recruited.
4. Analyze project employment policies and procedures to find out whether the composition of the current workforce suggests exclusion of potential workers with specific characteristics, that is, pregnancy, political affiliation, ethnicity, or race. If certain ethnic, racial, or other groups are not represented on the Project workforce in proportion to their numbers in the community, it could suggest discriminatory practices or conditions at the Project. However, under representation or non representation of specific groups does not necessarily confirm the existence of employment discrimination.
5. Hold confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to assess whether discriminatory hiring or employment practices or conditions exist at the project and in the area
  - b. Representative sample of project workers with different areas of responsibility, both union organized and non organized (offsite whenever possible), to obtain input on the existence or absence of discriminatory practices or conditions
  - c. Trade union and/or other worker organization representatives (offsite wherever possible) concerning the existence or absence of discriminatory practices or conditions.
  - d. Selected members of project management, (offsite, wherever possible), on existence or absence of discriminatory practices or conditions
  - e. Female workers to obtain their input on the existence or absence of the following: pregnancy testing, required use of contraceptives, sexual harassment by management or other workers, failure of management to observe legally required maternal nursing breaks or legally required maternity/paternity leave time
  - f. Members from underrepresented communities/populations in the locale and region to find out reasons for any under-/non representation at the project. Reasons could include cultural norms or practices, or preferences for other forms of employment. Reasons for under representation could also relate to lack of skills or educational/training opportunities, or to mandatory pregnancy testing at the hiring stage. These factors create systemic conditions for exclusion or under representation of certain groups and can constitute de facto employment discrimination.



## Best Practices

1. Provide accessible child-care facilities for workers (taking into account price, location, need, and related criteria for participation).<sup>23</sup>
2. Conduct employment diversity sensitization seminars addressing the concerns that different types of workers (based on ethnic, gender, religious, disability, or other status) may experience and how workplace difficulties for such workers can be avoided or mitigated. Such seminars should ensure that workers from both minority and majority groups are present.
3. Incorporate as a project policy the “ILO Code of Practice on HIV/AIDS and the World of Work” (June 2001), and particularly Section 5.2 concerning “Employers and their Organizations” to ensure that work is performed free of discrimination or stigmatization due to real or perceived HIV status, and to prohibit HIV testing in recruitment and employment. In developing the Project HIV/AIDS policy, management should also utilize the guidance provided by the International Finance Corporation.<sup>24</sup>
4. Comply with ILO Convention 156 on Workers with Family Responsibilities, creating a favorable environment for workers with families.
5. Establish policies and procedures to implement ILO Older Workers Recommendation Number 162 (1980) to ensure standards on equality of opportunity and treatment for older workers in employment and preparation for and access to retirement.
6. Provide safe and free or affordable transportation for workers from poor communities to the project job site.
7. Provide “accessibility” to project bathroom, showering, eating, tool, and other work facilities for disabled or handicapped workers.
8. Conduct regular onsite monitoring checks of contractor and subcontractor company employment records to verify that all project workers possess proper legal documentation to work in-country and to ensure that all of them, regardless of citizenship, are accorded the same labor rights and protections as host-country workers.
9. Ensure that management and workers observe project policies and procedures in relation to equal opportunity and treatment and nondiscrimination on the basis of sexual orientation, disability, or handicap

## 2.4 Elimination of Child Labor

In 2000, there were approximately 17.4 million “economically active” children between the ages of 5 and 14 in Latin America and the Caribbean.<sup>25</sup> An unspecified number of these young persons were engaged in what the ILO and other United Nations organizations have characterized as the “worst forms of child labor.”<sup>26</sup> In order to

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<sup>23</sup> See Inter-American Development Bank, “Does Child Care Pay? Labor Force Participation and Earning Effects of Access to Child Care in the Favelas of Rio de Janeiro.” (Working Paper No. 384, Office of the Chief Economist, Sustainable Development Department, IDB, Washington, D.C., 1998), for a study that establishes a causal relationship between access to child care and increased income levels for women.

<sup>24</sup> International Finance Corporation, “HIV/AIDS in the Workplace” (Good Practice Note No. 2, December 2002), <http://www.ifc.org/>.

<sup>25</sup> The global number for the same year was 211 million children, with 127.4 million in Asia and the Pacific and 48 million in Sub-Saharan Africa. See International Labour Organization, *A Future Without Child Labour: Global Report*, Report 1(B) of the International Labour Conference, 90<sup>th</sup> Session (Geneva: ILO, 2002), 19.

<sup>26</sup> “[T]hose activities that the global community has unanimously agreed are inexcusable under any circumstances and must be eliminated without delay.” The ILO Convention on Worst Forms of Child Labour (1999) states the term comprises: (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant

focus greater international attention on urgent and immediate action to prohibit and eliminate the worst forms, the ILO set up the International Program for the Elimination of Child Labor (IPEC) in 1991. Among countries in Latin America and the Caribbean, El Salvador was selected for the first IPEC project to address the problem in a national context.<sup>27</sup>

Child labor violates fundamental human rights and impedes economic growth and development by depriving children of educational or vocational training for productive and decent work, thereby consigning them to low-paying and unskilled jobs into adulthood. Child labor can also worsen adult working conditions by depressing wage levels and increasing unemployment rates.<sup>28</sup>

The ILO notes that the term *child labor* does not embrace all work performed by persons under 18 years of age, and acknowledges that millions of young persons undertake legitimate work, paid or unpaid, that is appropriate for their age and maturity. Through such work, youth learn responsibility, gain skills, and contribute to the income and welfare of their families and to the country's economy.<sup>29</sup> By contrast, the ILO has identified the following types of work as child labor to be targeted for abolition by the international community:

1. Work performed by a child who is under the minimum age specified for that type of employment (as defined by national legislation, in accordance with accepted international standards) and which is likely to impede the child's education and full development
2. "Hazardous work" that jeopardizes the physical, mental, or moral well-being of a child due to the nature of the job or the conditions under which it is carried out.
3. "Unconditional worst forms of child labor," defined as slavery, trafficking, debt bondage, and other forms of forced labor, forced recruitment for armed conflict, prostitution, pornography, and other illicit activities.

In pursuing abolition of child labor, the ILO relies upon standards of minimum employment age. The twin rationale for this concept is to protect children from work interfering with their full development, and to pursue economic efficiency through well-functioning adult labor markets.

The two key instruments that address child labor are Minimum Age Convention 138 (1973) and Worst Forms of Child Labor Convention Number 182 (1999). These conventions set the parameters for the types of work engaged in by children that the ILO seeks to abolish. Convention 138 establishes the most comprehensive and authoritative international standards on minimum age for employment. It requires each country to fix a minimum work age, which should not be less than the age for completing compulsory education and, at a minimum, should not be less than 15 years of age.<sup>30</sup>

The sections of Convention 138 addressing work considered detrimental to the health or morals of young persons (the work types identified as "worst forms of child labor") have been largely superseded by the Worst Forms of Child Labor Convention 182 (1999). Convention 182 applies to all persons under the age of 18, calls for "immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency,"<sup>31</sup> and is the most rapidly and widely adopted convention in ILO history.<sup>32</sup>

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international treaties; (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

<sup>27</sup> Globally, the ILO launched IPEC's first time-bound programs on the worst forms of child labor in three countries: El Salvador, Nepal, and Tanzania. For more information on IPEC in El Salvador, see <http://www.ilo.org/>.

<sup>28</sup> See R. Anker, "The Economics of Child Labour: A Framework for Measurement," *International Labour Review* (ILO, Geneva) 139, No.3 (2000).

<sup>29</sup> See *A Future Without Child Labour* (Geneva: ILO, 2002), 9.

<sup>30</sup> National governments must set a minimum age for employment and follow a national policy aimed at the effective elimination of child labor. Based on their particular social and economic circumstances, countries are allowed to establish their own legal minimum working ages, with the aim of progressively improving standards.

<sup>31</sup> See Articles 1 and 2, ILO Convention 182.

Sections from Convention 59 are also included in the Requirements section below because they assist in interpreting and implementing Convention 138.

## **Requirements**

### ***Convention 59: Minimum Age(Industry), Revised 1937***

1. Children under the age of 15 shall not be employed (Article 2).
2. The Project shall keep a register of all persons employed under the age of 18. This list shall include birth dates (Article 4).

### ***Convention 138 :Minimum Wage, 1973***

1. The minimum age for general employment must be the minimum age set by the host country government, or 15 years, whichever is higher (Article 2).
2. The minimum age for admission to any type of employment or work that by its nature or the circumstances in which it is performed is likely to jeopardize the health, safety, or morals of young persons shall not be less than 18 years (Article 3).

### ***Convention 182***

No person under the age of 18 years is to be subjected to any of the following activities:

1. Slavery or similar practices, such as debt bondage, and forced or compulsory labor
2. Prostitution or pornography
3. Illicit activities, including trafficking of drugs
4. Any work that, by its nature or the circumstance under which it is carried out, is likely to harm the person's health, safety, or morals.

### ***ILO Recommendation 190 : Worst Forms of Child Labour***

The following work activities are deemed "hazardous" and thus are prohibited for any person who is less than 18 years old:

1. Work exposing the person to physical, psychological, or sexual abuse
2. Work underground, underwater, at dangerous heights, or in confined spaces
3. Work with dangerous machinery, equipment, and tools, or which involves manually handling or transporting heavy loads
4. Work in an unhealthy environment, which may expose the person to hazardous substances, agents, or processes or to temperatures, noise levels, or vibrations damaging to health
5. Work under particularly difficult conditions, such as for long hours or during the night, or work in which the person is unreasonably confined to a specific workspace.

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<sup>32</sup> As of December 2002, 132 out of the ILO's 175 member countries had ratified it, and the only IDB member countries that had not were Bolivia, Colombia, Haiti, Jamaica, Suriname, Trinidad and Tobago, and Venezuela.

**Table 2.4. Requirements Related to Minimum Age and Child Labor**

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| <b>Convention 59: Minimum Age (Industry), Revised 1937</b>   |  |  |
| <p>The project shall not employ any person under the age of 15 years, or anyone under a national minimum age set higher than 15 years.</p> <p>The project must keep a register of all persons under the age of 18 years, which includes birth dates.</p> | <p>What is the age of the youngest project worker?</p> <p>What is the minimum employment age at the project?</p> <p>What is the nationally established minimum employment age, and the national minimum age for employment in “hazardous” work?</p> <p>Are there workers who are younger than 15 years of age? If so, what jobs do they perform?</p> <p>Does the project records of birth dates for all persons under 18 years of age?</p> <p>What procedures does the project have in place and utilize to verify internally and externally that the birth date information is accurate?</p> <p>How does the project ensure that no one under the national minimum age and the project minimum age (whichever is higher) is in its workforce?</p> <p>Is every project worker required to submit proof of age at time of hiring? What form of documentation is accepted?</p> <p>Does the project keep copies of age documentation for each worker?</p> <p>Is a copy of proof of age submitted to the Labor Ministry or other responsible authority at the time of hiring? Does the Labor Ministry require submission of proof of age?</p> <p>Are there problems with the submission of inaccurate or falsified proof-of-age documentation by workers? If so, how does the project deal with these situations?</p> <p>What policies and procedures are utilized to verify contractors are complying with national and project minimum age requirements for workers?</p> <p>Has the Labor Ministry or other governmental authority inspected the project for minimum age or to address underage employment allegations? If so, were corrective steps requested? Were such steps implemented? Was a written record kept on how these matters were handled and resolved?</p> | <p>Number of workers under 15 years old.</p> <p>List of workers and their birth dates.</p> <p>Copies of proof-of-age documentation submitted by each worker at time of hiring.</p> <p>Copies of project procedures to ensure conformance with national minimum wage laws.</p> <p>Ratio of persons under 15 years of age working nationally in the same industrial sector and the number of persons under 15 year of age working generally in the Project’s region.</p> <p>Certified statement from the Labor Ministry or other responsible governmental authority confirming the existence or absence of registered allegations, complaints, or reports about of minimum age violations.</p> <p>Project policy with implementing procedures effectively conveyed to all workers, management, and contractors setting a minimum work age above 15 years or the nationally established minimum age, whichever is higher.</p> |

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <b>Convention 138: Minimum Age, 1973</b>  |  |  |
| The minimum age will not be less than 18 for admission to any type of employment or work that is likely to jeopardize the health, safety, or morals of young persons.   | <p>What jobs/tasks or work stations are hazardous to the project worker health and safety?</p> <p>What policies and procedures are used for selecting workers for hazardous work?</p> <p>What is the national minimum age for employment in hazardous work?</p> <p>Does the project have a separate minimum age for hazardous work?</p> <p>What criteria does the project use to determine if work duties are unsuitable for workers under 18 years old?</p> <p>Has the Labor Ministry or other authority visited the project to inspect for minimum age compliance or to address allegations about persons under 18 years old engaging in hazardous work or work otherwise harmful to their safety, morals, or health? If so, were corrective steps requested? Were such steps carried out? Does the project have a written record detailing how these matters were handled and resolved?</p> | <p>A project policy defining what work is deemed hazardous or otherwise harmful to the health, safety, or morals of persons under 18 years of age, in accordance with the provisions of Convention 138.</p> <p>A project policy establishing a minimum age for work that is hazardous or otherwise harmful to the health, safety, or morals of persons under 18 years of age, in accordance with the provisions of Convention 138.</p> <p>A management system in place and effectively communicated to all workers and management that identifies work duties/tasks and work stations inappropriate for workers less than 18 years of age.</p>   |
| <b>Convention 182/ Recommendation 190: Worst Forms of Child Labor</b>   |  |  |
| <p>Persons under 18 years of age are not permitted to engage in any of the following:</p> <p>(1) Work exposing the person to physical, psychological, or sexual abuse</p> <p>(2) Work underground, underwater, at dangerous heights, or in confined spaces</p> <p>(3) Work with dangerous machinery, equipment, and tools, or which involves manual handling or transporting heavy loads</p> <p>(4) Work in an unhealthy environment, which may expose the person to hazardous substances, agents, or processes, or to temperatures, noise levels, or vibrations damaging to health</p> <p>(5) Work under particularly difficult conditions, such as for long hours or during the night or where the person is unreasonably</p> | <p>What tasks are assigned to workers under the age of 18?</p> <p>What Project policies and procedures are maintained to ensure that persons under 18 years of age are not exposed to situations inside or outside the workplace that are hazardous or otherwise harmful to their health, safety, or morals?</p> <p>What mechanisms does the project utilize to ensure that these policies and procedures concerning hazardous work are effectively conveyed to all management and workers?</p> <p>How does the project ensure that policies and procedures are effectively communicated to and observed by contractors?</p>   | <p>List of all workers engaged in “hazardous” work.</p> <p>Established policies and procedures to ensure that persons under 18 years of age are not exposed to situations inside or outside the workplace that are hazardous or otherwise harmful to their health, safety, or morals.</p> <p>Mechanisms in place to ensure that policies and procedures on minimum age for hazardous work are effectively conveyed to and observed by all management and workers.</p> <p>Mechanism to ensure that policies and procedures are effectively communicated to and observed by contractors.</p> <p>Certified statement from the Labor Ministry or other responsible authority confirming the existence or absence of registered allegations, complaints or reports on violations of minimum age laws relating to work</p> |

| Convention Requirements | Questions | Indicators   |
|-------------------------|-----------|--|
| confined to one site.   |           | that is hazardous or otherwise harmful to the health, safety, or morals of persons under 18 years old. |

### Documents Needed

1. Copies of ID cards or other proof of age for all project workers
2. Copy of documentation used by the project to confirm the age of each worker, including a list with the legal names and birth dates of all workers
3. Copies of reports generated internally by the project or provided by external sources (NGOs, government authorities, trade unions, and others) concerning allegations of child labor problems
4. List of all workers engaged in “hazardous” work
5. Copy of project policies and procedures to ensure that persons under 18 years of age are not exposed to situations inside or outside the workplace that are hazardous or otherwise harmful to their health, safety, or morals
6. Copy of mechanism utilized by the project to ensure that policies and procedures concerning hazardous work are effectively conveyed to all management and workers
7. Copy of documentation establishing that these policies and procedures are effectively communicated to and observed by contractors
8. Certified statement(s) from the Labor Ministry or other responsible governmental authority confirming the existence or absence of registered allegations, complaints or reports concerning violations of national minimum age laws, or relating to work that is hazardous or otherwise harmful to the health, safety, or morals of persons under 18 years of age.

### Site Visit

1. In preparation for site visit, obtain information from Web sites or otherwise from human rights, church, academic, and trade union groups and international organizations on any reporting of child labor problems in the area or in areas where contractors are located.
2. Observe the overall work environment, the relationship between workers and management, and general working conditions for the various types of workers during visits at work sites. In particular, observe whether there appear to be persons who might be younger than 18 years performing project functions that could be deemed “hazardous” or otherwise harmful to their health, safety, or morals.
3. Where appropriate and in a confidential manner that does not embarrass an interviewee among his/her peers, randomly sample workers, asking for identification cards.
4. Conduct confidential interviews (offsite, wherever possible) with:
  - a. Local human rights NGOs, church leaders, academics, and business leaders, to determine whether there is use at the project or in the area of child labor or employment of persons below the nationally established minimum ages for general and hazardous work
  - b. Random and representative sample of union-organized and non organized Project workers with different areas of responsibility, to obtain their input on the existence or absence of child labor at the worksite.
  - c. Trade union and/or other worker organization representatives, concerning the existence or absence of child labor at the project.
  - d. Selected members of management, on the existence or absence of child labor at the project.

## Best Practices

Most approaches to addressing child labor are based on recognition of entrenched social and economic circumstances connected with poverty that promote employment and exploitation of children. Child laborers are often providing valuable income needed by their families or are orphaned/abandoned/runaway minors who must work to sustain themselves. Examples of best practices include the following:

1. The project establishes a child labor action policy that is effectively communicated orally and in writing to management, workers, and all contractors. The policy should contain corrective actions and remediation procedures should child labor—within the meaning of ILO Conventions 59, 138, and 182 and Recommendation 190—be discovered at the project. Corrective action may call for providing alternative income sources for child workers. Removal of an underage young person from a job without additional follow-up on the worker's personal and family situation may foster an impression that the labor rights problem has been rectified. However, the now unemployed young person may be left in economic straits that necessitate working in the informal sector, begging, prostitution, or other criminal activities. Remedial measures should support the development and welfare of the young person,<sup>33</sup> until he/she reaches the age of 15 years for general employment, or the age of 18 years where appropriate.
2. If the project discovers or is otherwise notified that a worker is under 15 years of age or the nationally established minimum age (whichever is higher), it should (a) remove that person in a non humiliating manner from the workplace immediately or as expeditiously as possible, and (b) provide adequate support to the person and/or the person's family, where appropriate, to enable the person to attend and remain in school until he/she reaches the nationally established minimum working age or 15 years old, whichever is higher. When the young person attains 15 years of age, the project should use best efforts to hire him/her for general employment or to locate appropriate employment elsewhere in the locale or region, whenever possible.
3. The project should provide education and monthly supplemental resources and/or adequate vocational training for all persons who were under the age of 15 years when they were removed/dismissed from the project due to implementation of IDB Labor Guideline requirements. The educational, vocational, and financial benefits should be extended to said young persons until they reach 15 years of age. At that time, the project should use best efforts to hire him/her for general employment or to locate appropriate employment elsewhere in the locale or region, whenever possible.
4. If the project discovers or is otherwise notified that an employee under 18 years of age is engaged in work that is considered hazardous or likely to harm his/her health, safety, or morals, the worker should immediately or as expeditiously as possible, in a non humiliating manner, be transferred to duties/tasks or a workplace that is not harmful to his/her health, safety, or morals, in accordance with the prescriptions of ILO Recommendation 190.
5. All workers under 18 years of age should be provided with secure transport to and from their homes.

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<sup>33</sup> Other ILO conventions related to young workers are Convention 6, Night Work of Young Persons; Convention 90, Night Work of Young Persons, Revised; and Convention 77, Medical Examination of Young Persons. Detailed questions and indicators for assessing these can be found in this Guideline, Section 6.1.

### 3. CONDITIONS OF EMPLOYMENT

Basic conditions of employment are required to ensure workers receive adequate wages, have fair rights associated with termination and dismissal, and have appropriate personnel management mechanisms. These conditions, while not part of “core labor” requirements, help establish adequate working conditions and thus contribute to the success of any project or company.

#### 3.1 Wages

National laws establish minimum wages generally and, depending on the country, for each industry sector and classification of workers. In some cases, collective bargaining agreements also permissibly fix a minimum wage for an industry sector or group of workers. According to Article 3 of ILO Convention 131, the level of the minimum wage shall be fixed considering “the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups.”

In many countries in Latin America and the Caribbean, the officially decreed minimum wage does not accurately reflect the cost of living for a worker and his/her family. Consequently, the legally established minimum wage is often insufficient to ensure a basic standard of living. Several voluntary codes of conduct and guidelines have incorporated into their standards for private sector participants the concept of “living wages” or “basic needs wages” calculated on the basis of the real cost of living in that country or region.<sup>1</sup>

Along with receipt of an adequate minimum wage, wage security is another important labor right consideration. It concerns the form and manner in which worker salaries are paid, and what constitutes permissible deductions. These parameters are addressed in ILO Protection of Wages Convention 95. Current ILO conventions do not, however, completely cover a related area of concern: the amount that employers/management can permissibly deduct from salaries for housing and food provided to workers living on the worksite, particularly when it is located far from towns or normal commercial establishments. Nonetheless, such deductions should be reasonably related to the actual housing or food benefit provided and must not result in coercive disciplinary practices by the employer or in debt bondage (see Thematic Subcategory above on “Abolition of Forced Labor”).

ILO standards require that worker salaries be paid in a timely manner and in full, unless expressly authorized by national law, collective bargaining agreement, or arbitration award.<sup>2</sup> All overtime hours are to be paid in accordance with the mandated national or other legally established hourly rate. Failure by employers/management to observe requirements for maximum workweek, overtime pay rates, and absence of coercion by supervisors to work extra hours arguably may constitute forced labor when workers receive inadequate remuneration or undertake labor under threat of violence.

The following conventions also address the acceptability of employer/management-owned shops that provide basic necessities to workers at remote job sites. Employers cannot force workers to purchase basic needs, goods, and services in project-owned shops. In areas where workers lack access to alternative shops, the prices at employer-owned shops should be “fair and reasonable,” and such shops should not be operated for “securing a profit but for the benefit of the workers concerned.”<sup>3</sup>

<sup>1</sup> For example, see Social Accountability International, *Social Accountability 8000 (SA 8000) International Standard*, Article 8, Remuneration, paragraph 8.1, and *Guidance Document for Social Accountability 8000*, <http://www.sa-intl.org/>.

<sup>2</sup> ILO Protection of Wages Convention Number 95, Articles 8, 9, and 12.

<sup>3</sup> ILO Convention Number 95.



## Requirements

### *Convention 95: Protection of Wages, 1949*

1. Wages shall be paid only in legal tender not in promissory notes, coupons, or cash vouchers (Article 3).
2. Only if permitted by the competent national authorities or when provided in the collective bargaining agreement can wages be paid by bank check, postal check, or money order (Article 3).
3. National law or the collective bargaining agreement may permit partial payment of wages through allowances in kind. However, payment via liquor of high alcoholic content or via noxious drugs is not permitted under any circumstances (Article 4).
4. If the wage is partially paid in allowances, the allowance should be appropriate for the personal use and benefit of the worker and his/her family, and the value attributed to the allowance should be fair and reasonable (Article 4).
5. Wages must be paid directly to the worker concerned, except as otherwise provided by national laws or regulations, collective agreement, or arbitration award or when the worker concerned has agreed to the contrary (Article 5).
6. Employers are prohibited from limiting in any manner the worker's freedom to dispose of his/her wages (Article 6).
7. When the employer establishes shops to provide goods and services to workers, they must be free to choose to use or not use the shops.
8. In areas inaccessible to other shops, prices of goods and services in the employer's shop must be fair and reasonable (Article 7).
9. Deductions from worker wages at the project are permitted only if prescribed by national law or regulations, collective agreements, or arbitration award. Project management must inform workers about the conditions determining any deductions (Article 8).
10. The project is prohibited from using deductions from workers' wages as a direct or indirect quid pro quo for obtaining or retaining employment (Article 9).
11. The project can attach or assign workers' wages only in accordance with national legislation (Article 10).
12. Project workers' wages shall be protected against attachment and assignment to the extent deemed necessary for the maintenance of the worker and his family (Article 10).
13. If the project or any of its contractors become bankrupt or are liquidated by judicial process, the project workers employed by said entity shall be treated as privileged creditors regarding wages due to them for service rendered or as may be determined by national law (Article 11).
14. The project and its contractors must pay workers wages in regular intervals in accordance with national legislation, collective agreements, or arbitration awards (Article 12). A regular interval is determined by the following criteria:
  - a. Not less than twice a month when wages are calculated by the hour, day, or week
  - b. Not less than once a month when pay is fixed on a monthly or annual basis
  - c. At least twice a month, in proportion to the amount of work completed, when workers perform tasks whose completion will require at least two weeks duration and when wage payment intervals have not been fixed by collective bargaining agreement, with final payment due within two weeks of full completion of the task.<sup>4</sup>
15. Where wages are paid in cash, payment shall be made on working days and at or near the workplace unless otherwise established by national law, collective agreement, or arbitration awards (Article 13).
16. Except to pay persons employed to work there, the project, its contractors are prohibited from paying wages in taverns or similar establishments (Article 13).
17. The project must effectively ensure that all its workers are informed about the conditions (hourly rate, overtime, deductions, and so forth) affecting their wages (a) before entering employment, (b) if any

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<sup>4</sup> Guidance for the above determination of wage payment intervals is contained in Article 2 of ILO Protection of Wages Recommendation 85 (1949), supplementing ILO Convention Number 95 (1949).

changes concerning pay occur during their employment, and (c) when wages are dispensed for the pay period concerned (Article 14).

***Convention 131: Minimum Wage Fixing, 1970***

Workers must be paid at least the legally established minimum wage (Article 2).

***Convention 26: Minimum Wage Fixing, 1928***

The project must pay at least the minimum wage to each worker. The employer and worker cannot enter into an individual agreement to pay the worker less than the legally established minimum wage unless such arrangement is authorized by the Labor Ministry or other responsible governmental authority (Article 3).

**Table 3.1 Requirements Related to Wages**

| Convention Requirements   | Questions  | Indicators  |
|---|--|---|
| <b>Convention 95: Protection of Wages, 1949</b>   |  |   |
| Wages must be paid only in legal tender. The national law or the collective agreement may permit payment by bank or postal check or money order.  | In what form are wages paid to workers?  | Form of payment used by the project compared to the national or industry-sector norm.<br><br>A copy of the national law regarding form of wage payments.                                      |
| If authorized by national law, collective agreement, or arbitration award, the project can make partial payment of wages in kind (goods). However, the project is prohibited from making any partial wage payments via strong alcohol or noxious drugs. | Is the wage partially paid in the form of allowances, especially in goods or services?<br><br>If so, what kinds of allowances are provided to workers?<br><br>Are workers ever given alcohol in connection with their pay? | Allowances are in accordance with the collective bargaining agreement and national law.   |
| If wages are partially paid in allowances, these must be appropriate for the personal use and benefit of the worker and their family, and the monetary value of the allowance should be fair and reasonable.  | How much of each worker's salary is covered by any allowances?<br><br>What procedures are used to determine the forms of allowances?   | Value and nature of allowance related to workers' need.   |
| Wages must be paid directly to the worker concerned unless otherwise provided by national law, the collective agreement, arbitration award, or when the affected worker has agreed.   | Are wages paid directly to all workers? If not, what is the reason for not paying salaries directly to workers?  | Worker grievances related to wages.<br><br>Policies and procedures for direct payment of wages to workers.<br><br>Interviews with workers indicate their wages are not paid directly to them. |
| The project is prohibited from limiting in any manner the worker's freedom to dispose of their wages.   | Are workers free to dispose of their wages?<br><br>Are workers required or expected to purchase needed uniforms or tools from the project or from companies affiliated with the project?                                   | Worker grievances related to lack of freedom in using wages.<br><br>Project requirement that workers buy uniforms and tools from the project or project-affiliated shops.                     |

## Managing Labor Issues in Infrastructure Projects

| Convention Requirements  | Questions   | Indicators   |
|--|---|--|
| Where the employer has established shops to provide commodities to workers, the workers must be able to choose whether to use or not use the shop. | Does the project own or manage a shop providing commodities to the workers?<br>Are other shops within reach of workers?<br>Can workers freely choose where to buy their commodities?  | Worker grievances about lack of freedom to choose where to buy commodities.  |
| In areas where other shops are inaccessible, the goods and services provided by the project shop must be fairly and reasonably priced.             | If only the company-owned/managed shops are within reach of workers, how are product prices established?<br>Have workers made any complaints to project management or anyone else regarding the price fairness of commodities in the project- owned/managed shop(s)?  | Cost of products in the company-owned shop versus the market value.<br>Worker grievances about lack of freedom to choose where to buy commodities.   |
| Deductions from wages are prohibited unless expressly permitted by national law, collective agreements, or arbitrary award.                        | Under what circumstances are deductions made from worker salaries?  | Worker interviews and project pay records reveal that deductions are made without worker consent.<br>Project rules and practices on deductions conform to provisions of the national law concerning permissible wage deductions.                             |
| Workers shall be informed about the conditions under which deductions are made.  | How are workers informed about the amount and duration of pay deductions?   | Level of transparency regarding the deduction policy.  |
| The project must not permit wage deductions as direct or indirect payment to obtain or retain employment.  | What kinds of deductions are made from workers' salaries?<br>Are workers procured through employment agencies or labor brokers?<br>Do employment agencies/labor brokers deduct any amount from a worker's salary as a condition for providing that worker to the project or as a condition for continuing that worker's employment? | Grievances related to deduction of wages.  |
| Wages may only be attached and assigned in accordance with national law.   | In what situations are wages assigned or attached?<br>Is this in accordance with the national legislation?  | Amount of attachments and assignments exceeding the national legislation.  |
| Wages shall be protected against attachment and assignments to the extent deemed necessary for the maintenance of the worker and their family.     | Are workers assured that attachments and assignments will not prevent them from maintaining their families? Who determines what is "necessary" for a family's maintenance? What are the criteria for making this determination?   | Project policy guaranteeing all workers the minimum income necessary for family maintenance in the context of a court-ordered attachment or assignment.<br>Worker complaints about project nonobservance of abuse of requirement to meet family maintenance. |

| Convention Requirements   | Questions   | Indicators  |
|---|---|---|
| In case of project bankruptcy or judicial liquidation, workers shall be treated as privileged creditors concerning the wages due them for services rendered.  | In what ways are workers protected in case of bankruptcy or juridical liquidation?  | Security measures established to ensure workers' wages in case of bankruptcy.   |
| Wages should be paid at regular intervals in accordance with national law, the collective agreement, or arbitration award.  | <p>Is a policy in place to determine payment of wages and ensure wage payments at regular intervals, and are procedures established and implemented to execute that policy?<sup>5</sup></p> <p>Are wages calculated on an hourly, daily, weekly, or monthly basis?</p> <p>How often are wages paid?</p> <p>Are wages always paid in a timely manner?</p> <p>Have workers made any complaints regarding timeliness of wage payments? Please provide details.</p> <p>What policies and procedures does the project utilize to ensure that every contractor and subcontractor conforms to the above policies and procedures on payment of wages?</p> | <p>Frequency of pay compared to the national or industry-sector norm.</p> <p>A policy that determines payment of wages and ensures wage payments at regular intervals, and procedures established and implemented to execute that policy.</p> <p>Project policy to ensure contractor and subcontractor conformance with project policies and procedures on payment of workers' wages.</p> |
| <p>Cash wage payments shall be made on working days at or near the workplace unless otherwise established by national law, collective agreement, or arbitration award.</p> <p>Payment of wages for workers cannot be made at taverns or similar establishments.</p>             | <p>How and where are wage payments made? If payments are not made at the workplace, where are they made?</p> <p>Is there a documented project policy, effectively communicated to all workers and management, establishing a specific location for wage payment, and prohibiting disbursements at taverns or similar places?</p>  | Grievances related to payment of wages.   |
| The project must inform every worker about the conditions (hourly rate, overtime, deductions, etc.) affecting wages (1) before the worker begins employment, (2) when any pay changes occur during his/her employment, and (3) when payment of wages for the pay period occurs. | How are workers informed, before they enter employment, of the conditions (hourly rate, overtime rate, deductions, etc.) affecting wages? How are workers informed if any work condition (hourly rate, overtime rate, deductions, etc.) affecting pay is changed?   | Level of transparency in the calculation of wages, that is, the hourly rate, overtime rate, and deductions.   |

<sup>5</sup> The following criteria are used in determining what is a regular interval:

- Not less than twice a month when wages are calculated by the hour, day, or week
- Not less than once a month when pay is fixed on a monthly or annual basis
- At least twice a month in proportion to the amount of work completed when workers perform tasks that will take at least two weeks to complete and when the wage payment intervals have not been fixed by collective bargaining agreement, with final payment due within two weeks of full completion of the task.

See Article 2 of ILO Protection of Wages Recommendation 85 (1949), supplementing ILO Convention 95 (1949).

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| <b>Convention 131: Minimum Wage Fixing, 1931</b>   |  |  |
| Workers must be paid at least the established minimum wage.  | <p>What is the minimum wage for all project workers, including the hourly, weekly, or monthly rate; overtime rate; working hours; deductions; etc.?</p> <p>What criteria does the project use to set its minimum wage?</p> | <p>Project worker salary level compared to the national and industry-sector minimum.</p> <p>Project minimum wage meets or exceeds nationally set minimum wage for the industry sector.</p> |
| <b>Convention 26: Minimum Wage Fixing, 1928</b>  |  |  |
| The project must pay at least the minimum wage to each worker. The project cannot enter into an individual agreement to pay a worker less than the legal minimum wage unless authorized by the appropriate government authority. | <p>Are workers paid the minimum wage or more?</p> <p>Are any workers paid less than the minimum wage? If so, under what circumstances?</p> <p>How is the salary level determined?</p>                                      | <p>Project worker salary level compared to the national or industry-sector minimum.</p> <p>Project minimum wage meets or exceeds nationally set minimum wage for industry sector.</p>      |

## Documents Needed

1. Copy of the payroll for every worker
2. List of periodic deductions made for each worker
3. Price list of goods and services at employer operated shop(s)
4. Price list of goods and services provided by other local or regional shop(s)
5. Copy of the collective bargaining agreement
6. Copy of law setting out the current legally established national and industry-sector minimum wage
7. List of services provided by employer such as lodging and food and the charges made for them.

## Site Visit

1. Note the location of shops providing basic necessities to establish whether workers are dependent on one provider.
2. Assess whether the salary level is sufficient to meet the local cost of living, through calculations based on interviews with workers or by gathering living-cost data from other sources.
3. Verify whether lodging and food provided by the employer is paid for, and if so, assess whether costs are reasonable.
4. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine whether any problems exist concerning payment of wages, improper deductions, abuse of project-owned/managed shop(s), or related matters at the project and in the area
  - b. Random and representative sample of union-organized and non organized project workers with different areas of responsibility (offsite, wherever possible), to obtain their input on the existence or absence of problems concerning payment of wages, improper deductions, abuse of project-owned/managed shop(s), or related matters at the project—paying particular attention to verifying with a group of randomly chosen workers that any reported deductions are recorded in accordance with their personnel records

- c. Trade union and/or other worker organization representatives (offsite wherever possible), on the existence or absence of problems concerning payment of wages, improper deductions, abuse of project-owned/managed shop(s), or related matters at the project
- d. Selected members of project management (offsite whenever possible), on the existence or absence of problems concerning payment of wages, improper deductions, abuse of project-owned/managed shop(s), or related matters at the project.

### Best Practices

1. Wages paid by the project should reflect the cost of living in the region and should be established at a level that will provide a decent living for the worker and his/her family.
2. Where the legally established minimum wage does not enable a worker to meet the basic minimum necessities for himself/herself and his/her family, the project should consider the following elements in determining the level of wages paid to workers:
  - a. The needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups in the locale and the region
  - b. Economic factors, including the requirements of economic development, levels of productivity, and the desirability of attaining and maintaining a high level of employment (see ILO Minimum Wage Fixing Recommendation 135 (1970), Article II, paragraph 3).
3. Where workers are performing their tasks/duties at job sites in remote areas, the project should facilitate the means necessary to set up a cooperative shop for the sole benefit of these workers. This shop should provide for workers' basic necessities, offering economically priced goods and services in a manner that avoids excessive profit making at workers' expense.

## 3.2 Termination of Employment and Dismissal

Protecting workers against arbitrary termination of employment and dismissal is a fundamental component for ensuring worker rights. A worker's ability to protect his/her labor rights or improve the terms of employment conditions is diminished substantially if he/she can be terminated without cause from a job. One of the ILO's paramount objectives therefore is to establish parameters to ensure that workers are not terminated or dismissed without valid reason.

During the past 20 years throughout the developing world, the scope and incidence of "casual" and "contract/subcontract" labor has increased markedly over use of "directly hired employee" labor. This trend is particularly evident in the construction industry. Although bulk recruitment for construction projects in Brazil, Mexico, and elsewhere in Latin America traditionally has been through contracting, general contractors ordinarily maintained a permanent directly employed core workforce. Studies indicate that this core permanent workforce has declined during this same period, while the proportion of workers hired through intermediaries, or on casual terms has increased.<sup>6</sup>

Several reasons account for the trend toward subcontracting and the use of casual labor. Outsourcing labor offers flexibility in recruitment. A general contractor can bring on and pay for labor only as needed. By indirectly employing through subcontracted workers, the general contractor also can shift responsibility for supervising labor to the subcontractor, especially for work at remote sites. The general contractor can realize additional cost reductions by circumventing requirements to observe restrictive labor and welfare regulations, shifting legal

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<sup>6</sup> For example, *The Construction Industry in the Twenty First Century: Its Image, Employment Prospects, and Skill Requirements* (Geneva: International Labor Organization, 2001), 15–24.

responsibility to the subcontractor. In order to remain competitive through minimizing costs, however, subcontractors often do not bother to observe labor rights and social protection laws among their workforces.<sup>7</sup>

These shifts in the employment relationship have major impacts on the quality of worker protections, especially for employment benefits and termination rights. Casual workers can be hired for periods of days, weeks, or months, exempting the employer from providing the social security or other benefits legally mandated to directly hired permanent staff. Casual laborers often are hired without a written contract, which usually means that they are not protected legally against arbitrary termination and dismissal.

The ILO has formulated a number of conventions and recommendations to address termination and dismissal, particularly on how these phenomena adversely impact persons classified as “contract” and “casual” labor. These instruments include ILO Termination of Employment and Dismissal Convention 158 (1982), ILO Termination of Employment Recommendation 166 (1982), and ILO Termination of Employment Recommendation 119 (1963).

ILO Recommendation 166 expressly provides that adequate safeguards should be provided against the use of employment contracts for specified duration that are designed to avoid national legal protections due to permanent staff. Use of contracts for specific periods should be limited to situations in which, due to the nature of the work or the circumstances of its performance, the employment relationship cannot be of indeterminate duration.<sup>8</sup> In general, it is recommended that all workers shall be hired under written contracts unless the job circumstances necessitate otherwise (please also refer to Guideline Section 3.3 on “Personnel Management”).

### Requirements

#### *Convention 158: Termination of Employment, 1982*

1. The project cannot terminate the employment of a worker unless there is a valid reason connected with the worker’s capacity or conduct or based on the operational requirements of the project (Article 4).
2. The project shall provide adequate safeguards for workers hired under contract for a specified period or a specified task, or on a casual basis, to ensure that such workers receive termination and dismissal protection that is at least equivalent to the protection afforded to directly hired workers (Article 2).
3. The following, grounds shall not constitute valid reasons for termination:
  - a. Union membership or participation in union activities outside working hours or, with the consent of the employer, within working hours
  - b. Seeking office as, or acting or having acted in the capacity of, a workers' representative
  - c. The filing of a complaint or participation in proceedings against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities
  - d. Race, color, sex, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, or social origin
  - e. Absence from work during maternity leave (Article 5)
  - f. Temporary absence from work because of illness or injury (Article 6)
4. The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he/she is provided an opportunity to defend against the allegations, unless the project cannot reasonably be expected to provide this opportunity (Article 7).

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<sup>7</sup> Ibid., p. 24.

<sup>8</sup> ILO Recommendation Number 166, Article 3.

**Table 3.2. Requirements Related to Termination and Dismissal**

| Convention Requirements   | Questions  | Indicators  |
|---|--|---|
| <b>Convention 158: Termination of Employment, 1982</b>  |  |   |
| The project shall not terminate the employment of a worker unless there is a valid reason connected with the capacity or conduct of the worker or based on the operational requirements of the project establishment or service.  | <p>Under what legal circumstances can a worker's employment be terminated?</p> <p>Does the project have a policy about the grounds for employment termination? Is it effectively communicated to all workers and management, and how?</p> <p>What were the reasons and circumstances surrounding any recent cases of worker employment termination?</p> <p>Have workers or management raised concerns about the circumstances of dismissal or termination of any worker's employment?</p> <p>What percentage of the workforce is directly hired permanent staff, contract labor for a specified period, casual labor?</p> <p>Do all workers enter into written employment contracts, and do such contracts contain a clause about termination for a valid reason in accordance with requirements noted above?</p> <p>How does the project ensure that contractors observe its policy on dismissal and termination?</p> | <p>Grievances related to dismissals without just cause. A project policy concerning grounds for termination, with procedures for effectively communicating the policy to all workers and management.</p> <p>Written reports or certified statements from the Labor Ministry or other responsible governmental authority confirming the existence or absence of registered allegations, complaints or reports concerning unfair or discriminatory dismissal or workers.</p> <p>Mechanism to ensure that project policy on dismissal and termination is communicated effectively to and observed by contractors.</p> <p>Guidelines and procedures for employment termination are provided in a collective bargaining agreement.</p> |
| <p>The following are not valid grounds for employment termination:</p> <p>(1) Union membership or participation in union activities outside work hours or during work hours with project consent</p> <p>(2) Seeking, holding, or previously holding the office or position or worker representative</p> <p>(3) Filing a complaint or participating in legal proceedings against the project for legal or regulatory violations</p> <p>(4) Race, color, gender, marital status, family responsibility, pregnancy, religion, political opinion, national extraction, or social order</p> <p>(5) Absence from work due to maternity leave</p> <p>(6) Temporary absence from work due to illness or injury.</p> | <p>Have any workers ever been terminated from employment due to union affiliation or participation, filing a complaint against the employer, race, color, sex, pregnancy, marital status, religion, political opinion, family responsibility, national extraction, social origin, or absence from work during maternity leave or illness?</p>  | <p>Number of workers terminated due to union affiliation or participation, filing a complaint against the employer, race, color, sex, pregnancy, marital status, religion, political opinion, family responsibility, national extraction, social origin, or absence from work during illness or maternity leave.</p> <p>Written reports or certified statements from the Labor Ministry or other responsible governmental authority confirming the existence or absence of registered allegations, complaints or reports concerning unfair or discriminatory dismissal of workers.</p>  |



| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| The employment of a worker shall not be terminated for reasons related to the worker's conduct or performance before he/she is provided an opportunity to defend against the allegations. | <p>What mechanisms are available for workers to defend themselves when their employment is terminated due to their conduct or performance?</p> <p>Are these mechanisms effectively communicated to all workers and management?</p> <p>How does the project ensure that these mechanisms are communicated effectively to and observed by contractors?</p> | <p>Number of workers dismissed without having the opportunity to defend themselves.</p> <p>Established policy on providing workers with the opportunity to defend against termination notice, and verifiable procedures to ensure that the policy is communicated effectively to all workers, management, and contractors.</p> |

### Documents Needed

1. List of all dismissals of workers and managers, stating the specific circumstances for each dismissal
2. Copy of project policy concerning employment termination and dismissal, including grounds for dismissal
3. Copy of collective bargaining agreement
4. Written reports or certified statements from the Labor Ministry or another responsible governmental authority confirming the existence/absence of allegations/complaints/reports registered about unfair or discriminatory dismissal of workers or managers
5. Copies of contracts of all workers
6. Documentation of how effectively the project communicates its policy on termination to all workers and management
7. Documentation of how the project policy on dismissal and termination is communicated effectively to and observed by contractors

### Site Visit

1. Conduct interviews with dismissed workers.
2. Conduct interview with the workers organizations on circumstances of dismissals.
3. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine whether any problems exist concerning unfair, arbitrary, or discriminatory discipline or termination of workers at the project and in the area
  - b. Random and representative sample of unionized and nonorganized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on the existence or absence of problems concerning unfair, arbitrary, or discriminatory discipline or termination of workers
  - c. Trade union and/or other worker organization representatives, (offsite whenever possible), about the existence or absence of problems concerning arbitrary or discriminatory discipline or termination of workers
  - d. Selected members of project management (offsite whenever possible), about the existence or absence of problems concerning arbitrary or discriminatory discipline or termination of workers.

### Best Practices

1. Workers are not disciplined or discharged without just cause and a hearing to defend themselves.
2. Workers have the right to be accompanied by a worker representative at all stages of the discipline or discharge process.

3. Casual workers receive for the duration of their contracts the same health and other social security benefits and contractual conditions accorded to full-time permanent workers.
4. Every worker has an individual written contract, specifying the period of employment and the salary and the benefits granted. Each worker receives a copy of his/her contract.

### 3.3 Personnel Management

Adequate, fair, and readily understandable mechanisms for the administration and management of workers are key considerations for managers and employees, and for the effective functioning of a project. Transparent employment policies that are conveyed to all staff and establish the respective rights and responsibilities of workers and management can avoid unnecessary misunderstandings, facilitate the smooth and uninterrupted functioning of job duties, and assist in the selection of appropriate candidates for employment and promotion.

The ILO standards on personnel management are directed at fostering quality employment and raising worker living standards through provision of an adequate living wage, economic security, and equal opportunity. These ILO instruments cover general issues of personnel management, and include specific provisions focusing on the particular circumstances of workers hired through private employment agencies. The ILO has recognized the sensitive and vulnerable status of such workers.

Use of employment agencies can meet project needs for locating readily accessible pools of available laborers. In practice, however, workers hired under contracts administered by employment agencies face substantial potential for nonobservance or circumvention of their labor rights. Workers hired through such agencies commonly do not receive written contracts spelling out their employment terms and conditions, creating job insecurity and arbitrary opportunities for dismissal without notice or explanation. Employers should not hire workers through private employment agencies as a means of circumventing compliance with national labor law requirements. Project management's acquiescence to or condoning of abuses of the rights of persons hired under contracts administered by employment agencies can lead to conflicts and morale problems among the general project labor force, as well as potential public relations and legal problems for the project.

Employment contracts administered by private employment agencies should conform to all host country labor laws and applicable ILO standards.

ILO standards seek to ensure that permanent staff, as well as contractual workers, are not recruited or hired through private employment agencies to evade core labor rights. If private employment agencies are used to hire or recruit workers, the project must ensure that the workers receive a written copy of their contracts stating the employment terms and conditions. Projects are required to ensure that workers have a right to review their personnel files and to correct inaccurate information. Several ILO conventions and recommendations cover personnel management, including Employment Promotion and Protection against Unemployment Convention 168 (1988), Private Employment Agencies Convention 181 (1997), Private Employment Agencies Recommendation 188 (1997), Human Resources Development Convention 142 (1975), and Employment Policy Convention 122 (1964).

#### Requirements

##### *Convention 122:Employment Policy, 1964*

The project offers each worker the fullest possible opportunity to qualify for a job in which use of his/her skills and endowments make him/her well suited, irrespective of race, color, sex, religion, political opinion, national extraction, or social origin (Article 2 (c)).

***Convention 168: Employment Promotion and Protection Against Unemployment, 1988***

The project will ensure equality of treatment for all workers, without discrimination because of race, color, sex, religion, political opinion, national extraction, nationality, ethnic or social origin, disability, or age (Article 6).

***Convention 181: Private Employment Agencies, 1997***

1. The project shall ensure that all workers recruited by private employment agencies are not denied the right to freedom of association and the right to bargain collectively (Article 4).
2. To promote equality of opportunity and treatment in access to employment and to particular occupations, the project ensures that the private employment agencies it uses shall treat workers without discrimination on the basis of race, color, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability (Article 5).

***Recommendation 188: Private Employment Agencies***

1. The project shall adopt all appropriate measures to prevent and eliminate unethical practices by the private employment agencies it uses (Article II (4)).
2. For every worker procured through a private employment agency, the project shall require the agency to use an individual written contract of employment specifying the terms and conditions of employment. At a minimum, each worker procured through a private employment agency shall be given a copy of his/her written contract and shall be informed of his/her conditions of employment before the effective beginning of his/her project assignment (Article II (5)).
3. The project shall not utilize employment agencies to replace striking project workers (Article II (6)).
4. Private employment agencies shall not engage in the following activities (Article II (8)):
  - a. Recruit, place, or employ workers for jobs involving unacceptable hazards or risks or where they may be subject to abuse or discriminatory treatment of any kind
  - b. Fail to inform migrant workers, as far as possible in their own language or in a language with which they are familiar, of the nature of the position offered and the applicable terms and conditions of employment
5. Draw up/publish vacancy notices or offers of employment in ways that directly or indirectly result in discrimination on grounds such as race, color, sex, age, religion, political opinion, national extraction, social origin, ethnic origin, disability, marital or family status, sexual orientation, or membership in a workers organization (Article II(9)).
6. Record, in files or registers, personal data not required for judging the aptitude of applicants for jobs for which they are being or could be considered (Article II (11)).
7. The project and private employment agencies shall keep the personal data of a worker only so long as it is justified by the specific purposes for which it has been collected, or so long as the worker wishes to remain on a list of potential job candidates (adapted from Article II (12)).
8. The project and private employment agencies shall ensure that every worker has access to all of their personal data that has been processed by automated or electronic systems, or kept in a manual file. These measures should include the right of workers to obtain and examine a copy of any such data and the right to demand that incorrect or incomplete data be deleted or corrected (adapted from Article II (12) (2)).
9. Unless directly relevant to the requirements of a particular occupation and with the express permission of the worker concerned, the project and private employment agencies shall not require, maintain, or use information on the medical status of a worker, or use such information to determine the suitability of a worker for employment (adapted from Article II (12) (3)).
10. Having due regard to the rights and duties laid down in national law concerning termination of contracts of employment, the project and/or private employment agencies shall not engage in the following (adapted from Art II. (15)):
  - a. Restrict the occupational mobility of an employee
  - b. Impose penalties on an employee accepting employment in another enterprise.

**Table 3.3. Requirements Related to Personnel Management<sup>9</sup>**

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| <b>Convention 122: Employment Policy, 1964; and Convention 168: Employment Promotion and Protection Against Unemployment, 1988</b>   |  |  |
| The project offers every worker the full opportunity to qualify for, and to use their skills in, a job for which they are well suited, irrespective of race, color, sex, religion, political opinion, national extraction, or social origin. | <p>What factors does the project use to determine an applicant's suitability for a particular job or task?</p> <p>Does the project have an equal-opportunity-and-treatment employment policy covering hiring and on-the-job treatment that is communicated effectively to all workers, job applicants, management, and contractors?</p> <p>What reasons and circumstances governed recent cases in which a worker was terminated from his/her employment?</p> <p>Have any concerns been raised by workers or management about the circumstances of hiring or terminating any worker's employment? How does the project ensure that contractors observe its policy of equal opportunity in hiring and equal treatment on the job?</p> | <p>Worker grievances related to lack of promotions without a valid reason.</p> <p>An "equal opportunity and treatment" employment policy that covers hiring and job performance and is effectively communicated to all workers, applicants, management, and contractors.</p> <p>Written reports or certified statements from the Labor Ministry or other responsible governmental authority confirming the existence or absence of allegations, complaints or reports about unfair or discriminatory hiring, promotion, or dismissal practices.</p> <p>Mechanism to ensure that project policy on dismissal and termination is communicated effectively to and observed by contractors.</p> <p>Terms and procedures for termination of employment are provided in a collective bargaining agreement.</p> |
| <b>Convention 181 : Private Employment Agencies, 1997</b>  |  |  |
| The project must ensure that all workers recruited by private employment agencies are guaranteed freedom of association and the right to organize and bargain collectively.  | Does the project have a mechanism to ensure that workers recruited by private employment agencies are guaranteed freedom of association and the right to organize and bargain collectively?  | <p>An established mechanism, effectively communicated to all private employment agencies, that guarantees all workers recruited by private employment agencies freedom of association and the right to organize and bargain collectively.</p> <p>Copies of contracts of all workers hired through employment agencies that contain recognition of association, organization, and bargaining rights.</p>  |

<sup>9</sup> The Questions and Indicators in the following table do not necessarily correspond to each individual convention requirement. Instead, the user should utilize a combination of the Questions and Indicators to determine whether an individual convention requirement is being observed.

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
| Project must ensure that private employment agencies treat workers without discrimination because of race, color, sex, religion, political opinion, age, disability, national extraction, social origin, or any other form of discrimination covered by national law.   | What mechanisms does the project use to ensure that private employment agencies treat workers without discrimination on the basis of race, color, sex, religion, political opinion, age, disability, national extraction, social origin, or any other form of discrimination covered by national law?<br><br>Are these mechanisms effectively communicated to all workers and management?   | Project effectively communicates to private employment agencies its policies and procedures requiring that workers are treated without discrimination on the basis of race, color, sex, religion, political opinion, age, disability, national extraction, social origin, or any other form of discrimination covered by national law.<br><br>Complaints by workers hired through employment agencies regarding discriminatory practices.  |
| <b>Recommendation 188 : Private Employment Agencies, 1997</b>   |   |  |
| Project must adopt measures to prevent and eliminate unethical practices by the private employment agencies it uses.  | What policies does the project have to prevent and eliminate unethical practices by the private employment agencies it uses?<br><br>How are these policies effectively communicated to relevant project management?<br><br>Has the project ever taken steps to address unethical practices by a private employment agency? If so, what were the circumstances?  | Established policies, with procedures for effective communication to private employment agencies and project management, to prevent and eliminate unethical practices by private employment agencies used by the project.<br><br>Reports or complaints of workers, management, or third parties about unethical practices by private employment agencies used by the project.  |
| Every worker obtained through a private employment agency must enter into a written contract specifying job terms and conditions. A copy of this contract must be given to the worker before they begin project work.<br><br>Private employment agencies cannot be used to replace striking workers.<br><br>Private employment agencies cannot be used to obtain or employ workers for jobs involving unreasonable hazards or abusive situations.<br><br>Private employment agencies must inform migrant workers, in a language understandable to them, about the nature, terms, and conditions of the job.<br><br>Private employment agencies cannot use racial, ethnic, gender, religious, political, marital, or other socially discriminatory criteria in advertising to procure workers for the project. | Do all workers hired through private employment agencies enter into written employment contracts, and are such contracts given to the worker before beginning their assignment?<br><br>Does the project have an “equal opportunity and treatment” employment policy for hiring and job performance that is effectively communicated to all workers, applicants, management, and contractors?<br><br>For what reason(s) are workers hired through employment agencies rather than directly?<br><br>Have workers obtained through employment agencies ever been recruited to replace workers during or immediately after a strike?<br><br>What types of jobs do workers procured through employment agencies perform?<br><br>How do the employment agencies procure workers for the project? What qualities and other factors do they use | Copies of written contracts for all workers hired through employment agencies. Reports or complaints from third parties about the use of employment agencies to replace striking workers.<br><br>Written reports or certified statement from the Labor Ministry or other responsible governmental authority confirming the existence or absence of allegations, complaints, or reports about use of employment agencies to replace strikers or obtain workers for unreasonably hazardous or abusive work conditions.<br><br>Copies of job announcement materials used by the employment agencies to procure workers for the project.<br><br>Conditions and procedures for termination of employment are provided in a collective bargaining agreement.<br><br>Confidential interviews with project migrant workers, local human rights NGOs, or union or church groups |

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
|   | <p>for selecting workers?</p> <p>Do the private employment agencies recruit migrant workers for the project?</p> <p>How does the project ensure that migrant workers understand the nature, terms, and conditions of the job for which they are hired, especially when they are not native speakers of the national language?</p>   | <p>indicate how well migrant workers hired through employment agencies understand their employment terms and conditions.</p>   |
| <p>Project and employment agencies must not record or maintain personal data, including medical data, on workers that is not required for judging applicants' job aptitude.</p> <p>Project and employment agencies shall enable every worker to have access to his/her personnel data and to correct inaccurate data.</p> | <p>What criteria does the project use for deciding to store personal data, including medical data, of workers?</p> <p>What criteria do the private employment agencies use?</p> <p>Does the project keep medical and other data on applicants in addition to the basic requirements for judging job aptitude?</p> <p>Are workers and job applicants given access to their personal data kept on file by the project and private employment agencies?</p> <p>Have there been reports from workers and applicants about incorrect data in their personnel files held by the project or an employment agency?</p> <p>How are such reports handled?</p> | <p>Grievances or other reports from workers, project management, or third parties about the project or employment agencies improperly using personnel data of workers or job applicants.</p> |

### Documents Needed

1. Grievances or other reports from workers, management, or third parties concerning improper use by the project or employment agencies of personnel data belong to workers or job applicants
2. Copies of job announcement materials used by employment agencies to procure project workers.
3. Written reports from the Labor Ministry or other responsible governmental authority confirming the existence/absence of allegations/complaints/reports registered concerning (a) use of employment agencies to fill places of strikers or to obtain workers for unreasonably hazardous or abusive work conditions; (b) unfair or discriminatory hiring, promotion, or dismissal practices
4. Reports or complaints (if made) by third parties, management, and workers regarding (a) use of employment agencies to fill places of striking workers or (b) unethical and discriminatory practices of private employment agencies used by the project
5. Copies of written contracts for all workers hired through employment agencies
6. Policies established with procedures for effective communication to private employment agencies and project management to prevent and eliminate unethical practices by private employment agencies used by the project
7. Project policies and procedures for private employment agencies, regarding nondiscrimination in hiring and on-the-job treatment

8. Mechanism to ensure that project policy on dismissal and termination is communicated effectively to and observed by contractors
9. An equal-opportunity-and-treatment employment policy that is effectively communicated to all workers, prospective workers, management, and contractors with regard to hiring and the workplace.

### Site Visit

1. Conduct confidential interviews with dismissed workers to learn the circumstances of their dismissals.
2. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine whether any problems exist concerning unfair, arbitrary, or discriminatory dismissal, termination, or other treatment of workers, particularly concerning private employment agencies
  - b. Random and representative sample of union-organized and nonorganized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on the existence or absence of problems concerning unfair, arbitrary, or discriminatory dismissal, termination, or other treatment of workers, particularly concerning private employment agencies
  - c. Trade union and/or other worker organization representatives (offsite whenever possible), on the existence or absence of problems concerning unfair, arbitrary, or discriminatory dismissal, termination, or other treatment of workers, particularly concerning private employment agencies
  - d. Selected members of project management (offsite whenever possible), on existence or absence of problems concerning unfair, arbitrary, or discriminatory dismissal, termination, or other treatment of workers, particularly concerning private employment agencies

### Best Practices

1. Project extends, adapts, and harmonizes its vocational training systems to meet the needs for vocational training throughout life of youth and adult workers in all sectors of the project and at all levels of skill and responsibility.
2. Project formulates and implements policies and programs on vocational guidance and training in cooperation with employer and worker organizations.
3. Project establishes special programs to promote additional job opportunities and assistance, and encourages productive employment opportunities for identified categories of disadvantaged persons having or liable to have difficulties in finding lasting employment, such as women, young workers, disabled persons, older workers, the long-term unemployed, migrant workers lawfully resident in the country, and workers affected by structural change.

## 4. CONDITIONS OF WORK

The ILO has established policies and mechanisms to guarantee minimum working standards, including wages for a decent living, a 48-hour maximum workweek, a 24-hour weekly rest period, and minimum conditions for ensuring occupational health and safety. ILO elaborates standards for working conditions in forms that permit some flexibility in scope and coverage for national implementation. However, the overall aim is for countries to take proactive steps for achieving higher levels of protection over time. For example, the Forty Hour Work Week (Convention 47, 1935) supports the 40-hour week as a social standard that countries will attain in progressive stages where necessary.

### 4.1 Hours of Work

Although not listed among the core labor rights, acceptable conditions relating to maximum working hours and appropriate periods of rest are fundamental concerns of workers everywhere. Forced overtime, irregular calculation and payment of overtime, and nonpayment of regular wages and overtime are frequent complaints of workers in many industries. Similarly, required production quotas violate basic rights if they mean that workers have to stay at job sites in excess of legally permitted maximum hours, even if compensated by bonuses.

The relationship between wage rates and hours worked should equate with workers being able to maintain themselves and their families in health and dignity. To obtain more income, some employees may welcome longer hours than permitted under national law. An unfortunate reality in Latin America and the Caribbean is that nationally established minimum wages are often insufficient to meet a family's needs for food, housing, health care, and education. Working more hours than are authorized or permissible becomes an attractive option.

Despite the possible short-term economic benefits that obviating the laws might appear to offer employers and employees, these laws were created to mitigate physical and psychological harm that can result from overwork and inadequate rest, including employee fatigue, lower work productivity, and increased occupational injury. Depending on the circumstances, extra hours extracted from workers without remuneration could arguably be considered a form of forced labor. (See Guideline Section 2.2 Abolition of Forced Labor.)

ILO standards articulated in the Hours of Work (Industry) (Convention 1, 1919) and the Reduction of Hours Recommendation (Convention 116, 1962) generally prescribe a maximum of 8 hours per day, with a workweek no longer than 48 hours and including a 24-hour consecutive rest period each week. All hours of overtime shall be paid according to the national ratio for overtime, but not less than 125 percent of the normal hourly rate. Working condition standards in the ILO instruments permit some flexibility for national implementation.

The convention specifically applies only to the following:

1. Mines, quarries, and other works for the extraction of minerals from the earth
2. Industries in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up, or demolished, or in which materials are transformed—including shipbuilding and the generation, transformation, and transmission of electricity or motive power of any kind.
3. Construction, reconstruction, maintenance, repair, alteration, or demolition of any building, railway, tramway, harbor, dock, pier, canal, inland waterway, road, tunnel, bridge, viaduct, sewer, drain, well, telegraphic or telephonic installation, electrical undertaking, gas work, water work or other work of construction, as well as the preparation for or laying the foundations of any such work or structure.
4. Transport of passengers or goods by road, rail, sea, or inland waterway, including the handling of goods at docks, quays, wharves, or warehouses, but excluding transport by hand.



## Requirements

### ***Convention 1: Hours of Work (Industry), 1919***

1. Workers shall not work more than 8 hours a day and 48 hours per week. If agreed upon by the worker and employer/management representatives, a work day can be up to 9 hours, provided that the total amount of hours per week does not exceed 48 hours (Article 2).
2. Regarding shift work, the daily work hours can exceed 8 hours and the weekly work hours can exceed 48 hours as long as the weekly work hours, averaged over a period of three weeks, do not exceed 48 hours (Article 2).
3. The established limits to hours of work may be exceeded in case of actual or threatened emergency or where urgent work must be done at the project, but only so far as necessary to avoid serious interference with ordinary working time of the project (Article 3).
4. An average work week should never exceed 48 hours no matter what agreements have been established (Article 5).
5. In cases where overtime is considered necessary and is agreed upon by the worker and project management representatives, the rate of pay for overtime shall not be less than one and one-quarter (1.25 percent) times the regular rate (Article 6).
6. The project shall notify the workers by posting notices in conspicuous places at the work site or at other suitable places, when the workday starts and when it ends, or in the case of work being carried out in shift, when the shift begins and ends. No work should be conducted beyond the stipulated hours of work, and changes should be made only in a manner approved by the national government (Article 8).
7. The project shall clearly notify the workers, by posting notices in conspicuous places at the work site or at other suitable places, of the rest intervals accorded during the work period that are not considered part of the actual working hours (Article 8).
8. The project shall keep a record of all hours worked by every worker beyond the stipulated work hours in cases noted in requirements 3 and 5 above (Article 8).

**Table 4.1. Requirements Related to Hours of Work**

| Convention Requirements  | Questions   | Indicators  |
|--|---|---|
| <b>Convention 1: Hours of Work (Industry), 1919</b>  |   |   |
| Workers shall not work more than 8 hours per day and 48 hours per week unless by agreement between the worker and employer /management, and then the workday can be up to 9 hours, so long as the total number of hours per week does not exceed 48. | <p>What is the national legal maximum number of work hours permitted per day and per week?</p> <p>Does the project set a maximum number of hours for all workers per day and per week?</p> <p>What are the daily and weekly working hours for the different areas of responsibility on the project site?</p> <p>If the project maximum exceeds the national maximum, please explain the reasons for doing so.</p> | <p>Awareness among workers about working-hour requirements and how they are enforced (could be a percentage, but that would imply interviewing all workers).</p> <p>Project policy on maximum work hours effectively communicated to all workers, management, contractors, and subcontractors.</p> <p>Certified statement or report from national Labor Ministry or other responsible government authority confirming daily or weekly violations of maximum hour laws and regulations for workers.</p> <p>Evidence from project, external medical</p> |

| Convention Requirements   | Questions  | Indicators  |
|---|--|---|
|   | <p>How are working hours recorded by the project?</p> <p>How is the project policy on maximum work hours effectively communicated to all workers, management, contractors?</p>   | <p>records, or third parties that fatigue-related accidents appear</p> <p>excessive given the number of hours project workers are supposed to be working.</p> <p>Confidential statements from workers and management, human rights NGOs, or other civil society groups regarding presence or absence of work hour violations.</p>   |
| Daily work hours for shift work can exceed 8 hours and the weekly shift hours can exceed 48 hours, so long as the average week does not exceed 48 hours within a period of three weeks.                   | <p>Within which areas of work and under what conditions is shift work conducted?</p> <p>On average, for how many hours is each work shift per day and per week?</p> <p>Are there any work tasks/duties that require shifts longer than 8 hours per day and 48 hours per week?</p>  | <p>Awareness among workers of how shift work is organized.</p> <p>Project policy on maximum work hours effectively communicated to all workers, management, contractors.</p> <p>Certified statement or report from national Labor Ministry or other responsible authority confirming violations of shift-work legal requirements.</p> <p>Confidential statements from workers and management, human rights NGOs, or other civil society groups regarding presence/absence of shift work violations.</p>   |
| The established work hour limits may be exceeded in case of actual or threatened emergency or urgent work at the project, but only when necessary to avoid serious interference with ordinary operations. | <p>Does the project experience emergency or other urgent situations that entail exceeding established work time hour limits? If so, how often?</p> <p>Is a record kept of such situations and are these situations reported to The responsible government authorities including reports of exceeding the legally established daily or weekly hour maximum?</p> | <p>Record of project situations mandating exceeding daily or weekly maximum number of hours, with details substantiating the need to exceed legally established work hour requirements.</p> <p>Certified statement or report from national Labor Ministry or other responsible authority recording the reporting of the urgent/emergency situation.</p> <p>Confidential statements from workers and management, human rights NGOs or other civil society groups regarding presence/absence of emergency/urgent situations and related violations of established maximum work hours.</p> |
| An average work week should never exceed 48 hours, no matter what agreements have been established  | <p>Have workers agreed individually, through their freely elected representatives, or in the collective bargaining agreement to exceed the maximum 48-hour week?</p> <p>How many hours constitute an average work week?</p>  | <p>Length of an average work week.</p> <p>Confidential statements from workers and management, human rights NGOs, or other civil society groups regarding presence/absence of project exceeding established maximum work hours.</p> <p>Copy of the collective bargaining agreement</p>  |
| In cases where overtime is considered necessary and is  | What is the rate at which overtime is compensated?   | <p>Rate of compensation for overtime.</p> <p>Established project policy that over-time</p>  |

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| agreed upon by the project management and the freely elected worker representatives, the rate of pay for overtime shall not be less than 1.25 times the regular rate.   | How is the project rate on overtime effectively communicated to all workers, management, contractors?<br>Has the overtime rate been negotiated with workers or their freely elected representatives?   | shall not be less than 1.25 times the regular rate, which is effectively communicated to all workers, management, contractors.<br>Copy of the collective bargaining agreement.<br>Confidential statements from workers and management, human rights NGOs, or other civil society regarding violations of legal overtime rate.<br>Certified statement or report from national Labor Ministry or other responsible authority regarding overtime violations at project.   |
| The project shall notify the workers by posting notices in conspicuous places of workday starts and ends; or in the case of work that is carried out in shifts, when a shift starts and ends. No work should be conducted beyond the stipulated hours of work, and changes should only be made in accordance with national regulations. | When does the project workday begin and end? At what times do shifts begin and end?<br>By what means are workers notified of the length of the workday and the organization of shifts?<br>If there are notices at the job site regarding the workday, how long have these notices been posted?<br>Under what circumstances are workers asked to work beyond the established working hours? | Number of average hours worked outside the established workday.<br>Site observation of notices in conspicuous places regarding workday and shift hours.<br>Confidential statements from workers and management, human rights NGOs, or other civil society groups regarding notices on workday shifts, or project violations of legal workday or shift.   |
| The project shall clearly notify its workers by posting notices in conspicuous places that rest interval hours are not regarded as a part of working hours.   | How are workers informed about which hours are not considered part of normal working hours?<br>How many rest breaks are workers given per day?   | Level of transparency and dissemination of information about hours of work (e.g. notices about work hours and rest period posted in public places).<br>Interviews with workers indicate that management has conveyed the information and that workers understand the work hours and rest periods.<br>Meetings with workers confirm that they clearly understand rest interval hours.<br>Confidential statements from workers and management, human rights NGOs, or other civil society groups about notices on rest intervals and about project management violations of rest intervals. |
| The project shall keep records of all hours worked beyond the stipulated work hours outlined under requirements for emergency overtime and pay above.   | In what ways are hours worked beyond the established minimum work hours recorded by the employer?  | Updated record on the hours worked beyond the established minimum hours.<br>Confidential statements from workers, management, human rights NGOs, or other civil society groups about violations concerning recording of work hours.  |

| Convention Requirements | Questions | Indicators  |
|-------------------------|-----------|---|
|                         |           | Certified statement or report from national Labor Ministry or other responsible authority confirming violations of exceeding legally stipulated maximum work hours. |

### Documents Needed

1. Copy of the monitoring system to measure and register work time
2. Copy of the work plans, work shift, and so forth
3. Copy of policy for overtime and payment of overtime
4. Copy of register of overtime hours and payment for each worker
5. Reports from national Labor Ministry or other responsible governmental (judicial) authority about the presence or absence of overtime, shift, rest break, maximum daily or weekly work hours, or violations or failure to adequately post notices to inform workers of workday and shift limits
6. Copies of project policies on overtime, shift work, and maximum hours, with documentation demonstrating that the policies are effectively communicated to all workers, management, contractors
7. Evidence from project, external medical records, or from third parties that fatigue-related accidents appear excessive given the number of hours that project workers are supposed to be working
8. Copies of notices posted to inform employees of the legal maximum work hours, overtime rates, and rest period requirements.

### Site Visit

Conduct confidential interviews with the following:

1. Local human rights NGOs, church leaders, academics, business leaders, chamber of commerce, to detect violations or other problems relating to maximum hours, shift work, overtime, or notification of this information to workers
2. Random and representative sample of union-organized and non organized project workers across areas of responsibility (offsite whenever possible), to gather input on violations or other problems relating to maximum hours, shift work, overtime, or notification of this information to workers, and also to confirm that worker overtime and overtime payment is recorded in accordance with worker contractual rights and obligations and with project policies on maximum hours and overtime
3. Trade union or other worker organization representatives (offsite whenever possible), to learn of violations or other problems relating to maximum hours, shift work, overtime, or notification of this information to workers
4. Selected members of project management (offsite whenever possible), on violations or other problems relating to maximum hours, shift work, overtime, or notification of this information to workers
5. Project medical clinic or local hospital staff about the number of fatigue-related injuries from workers.

### Best Practices

1. Even if current national law does not stipulate a 40-hour workweek, take steps to shorten workweek hours (without reducing weekly wages) for all positions not requiring remaining at the work site in excess of 40 hours.

2. Set up monitoring systems to ensure that managers do not create situations in which workers are regularly on the job for more hours than actually paid.
3. Ensure that employees are not classified as part-time workers in order to obviate laws and regulations on payment of overtime and maximum hours per week.
4. Establish a company policy that full-time workers who become partially unemployed through temporary reduction in normal hours due to economic, technical, or structural reasons shall not be reclassified as part-time workers.
5. Ensure that part-time workers do not, solely as a result of being part-time, receive a basic wage that is calculated proportionately on an hourly, performance-related, or piece-rate basis that ends up being lower than the basic wage of comparable full-time workers calculated according to the same method.
6. Establish a company policy with implementing procedures that part-time workers shall receive the same worker rights protections accorded to comparable full-time workers, including the core labor rights as well as maternity protection, termination of employment, paid public holidays, and leave and rest periods.

## 4.2 Night Work

The construction and operation of large infrastructure and transportation projects may entail the presence of substantial numbers of workers at the job site late into the evening. In some cases, work activities may continue 24 hours per day. Outdoor construction and maintenance at night, especially in tropical forests, wetlands, or other remote sites, can involve potential dangers and stresses beyond those that workers would encounter during daylight hours at the same locations. In addition to continual vigilance to ensure sufficient visibility for safe work activities after sunset, persons working outdoors at night need to take special precautions against dangerous insects, reptiles, and other organisms, as well as hazards caused by forces of nature. ILO standards on night work are designed to protect the safety and health of workers who undertake their job duties during night hours, to assist them in meeting their family and social responsibilities, and to ensure that they are adequately compensated for working outside in the dark or at other locations while other workers would ordinarily be resting or sleeping. The relevant ILO instrument addressing the special circumstances is the Night Work Convention 171 (1990).

### Requirements

#### *Convention 171: Night Work Convention, 1990*

1. All workers engaging in night work shall have the right to a free health assessment and receive advice on how to reduce and avoid health problems associated with their work. This assessment should be performed before starting a night work assignment, at regular intervals during the assignment, or whenever the worker experiences health problems potentially related to the night work (Article 4).
2. With the exception of a finding of unfitness for night work, records containing individual worker health assessments shall not be transmitted without the worker's consent (Article 4).
3. Suitable first-aid facilities shall be made available for workers performing night work, including arrangements to quickly transport workers to receive appropriate medical treatment if necessary.
4. Workers who are medically certified as unfit for night work shall be transferred to a similar job for which they are fit. If a transfer is not practicable, the worker shall be granted the same benefits as other workers who are unable to work or secure employment (Article 5).

5. Any night worker who is certified as temporarily unfit for night work shall be given the same protections against dismissal as are accorded to other workers who are prevented from working on health grounds (Article 6).
6. Alternatives to night work<sup>1</sup> shall be provided for women for at least 16 weeks before and after childbirth, including at least 8 weeks before the expected date of childbirth.
7. The period can be extended with medical certification stating the necessity for the health of the child and the mother, both during and after pregnancy (Article 7).
8. During these periods (as described in 6, above) in which pregnant women and new mothers are not to perform night work, the following conditions apply:
  - a. A woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth.
  - b. The income of the woman worker shall be maintained at a level sufficient for her upkeep and her child's in accordance with a suitable standard of living.
  - c. A woman worker shall not lose the benefits of status, seniority, and access to promotion that may attach to her normal night work position.
  - d. The provisions in a-c shall not have the effect of reducing the protection and benefits connected with maternity leave (Article 7).
9. Compensation for night workers in the form of working time, pay, and similar benefits shall reflect the nature of night work (Article 8).
10. Appropriate social services should be provided to workers performing night work (Article 9).
11. Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives on the details of schedules and the forms of organization of night work that are best adapted to the project and its personnel, as well as the occupational health measures and social services that may be required. In projects employing night workers, this consultation shall take place regularly (Article 10).
12. The above provisions regarding night work may be implemented in the project collective bargaining agreement (Article 11).

**Table 4.2. Requirements Related to Night Work**

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <b>Convention 171: Night Work, 1990</b>   |  |  |
| All workers engaging in night work have the right to a free health assessment and health advice on problems dealing with night work. The assessment is performed before starting a night work assignment, at regular intervals during the assignment, and whenever the worker experiences night-work health problems. | <p>What measures are taken when employing or when assigning workers to perform night work?</p> <p>Are workers offered a health assessment and health advice before starting night work assignments?</p> <p>After the initial assessment, how often are assessments repeated?</p> | <p>Efficient measures are taken to inform workers and prevent problems related to night work.</p> <p>Records of the number of workers who have received health assessments before starting night work assignments and at regular intervals thereafter.</p> |

<sup>1</sup> Alternatives to night work may include transfer to day work where this is possible, the provision of social security benefits, or an extension of maternity leave (Article 7, Paragraph 2).

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
| Except for a finding of unfitness for night work, records with information on worker health assessments cannot be transmitted without the worker's consent.   | How are records containing information on workers' health administered?   | Efficient administrative procedures for maintaining the secrecy of records on workers health certifications in place.<br><br>Confidential statements from workers and management.<br><br>Information from human rights NGOs on project policies and practices on nondisclosure to third parties of worker health information.  |
| Suitable first-aid facilities shall be made available for workers performing night work, including arrangements for workers to be quickly transported for medical treatment if necessary.   | What facilities are provided for workers conducting night work in case of an accident?<br><br>What are the means by which a worker can get medical assistance in an emergency?  | First-aid facilities for workers performing night work in place.   |
| Workers medically certified as unfit for night work are transferred to similar, suitable jobs. If a transfer is not practical, the worker receives the same protections against dismissal accorded to other workers unable to work on grounds of health.  | If workers have been offered night work but are not found fit to perform it, what possibilities are offered for continuing employment?  | Number of workers assigned alternative day work when considered unfit for night work.<br><br>Project policy effectively communicated to all workers and management on dismissal protections for workers certified as unfit for night work and for workers found to be unable to work due to health reasons.<br><br>Certified statements or reports from Labor Ministry or other responsible governmental authority confirming complaints about project practices toward workers with health problems caused by night work.<br><br>Confidential statements from workers, management, and human rights NGOs about project policies and practices concerning treatment of workers found unfit for night work on health grounds. |
| During the periods before and after childbirth outlined above, the following apply:<br><br>(1) A woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth.<br><br>(2) The income of the woman worker shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. | When women are provided alternatives to night work during pregnancy, what is their income compared to their previous income during night work?<br><br>If no eligible alternatives to night work are available for pregnant women, what economic solutions are provided? | Salary level for alternative day work during pregnancy compared to previous salary level.<br><br>Confidential statements from workers—in particular, women workers, management, and human rights NGOs—on project policies and practices concerning pregnant women and new mothers.<br><br>Project policy effectively communicated to all workers, management, contractors addressing protections and alternatives to night work for pregnant women/new-  |

| Convention Requirements  | Questions  | Indicators  |
|--|--|---|
| <p>(3) A woman worker shall not lose the benefits regarding status, seniority, and access to promotion that may attach to her regular night work position.</p> <p>(4) The provisions of this article shall not have the effect of reducing the protection and benefits connected with maternity leave.</p>   |  | <p>mother night workers.</p> <p>Certified statements or reports from Labor Ministry or other responsible governmental authority confirming complaints about project practices toward women night workers who become pregnant.</p> |
| Compensation in the form of working time, pay, and similar benefits are to reflect the nature of night work.   | What is the hourly night work rate compared with the hourly rate for work performed during the day?  | Level of compensation compared to day work.   |
| Appropriate social services should be provided to workers performing night work.   | What kinds of social services are provided? In what ways do the social services provided differ from the social services provided for day workers?   | Social services for night workers compared to day workers.  |
| Before introducing work schedules requiring the services of night workers, the employer shall consult the workers' representatives on schedules, the forms of organization of night work that are best adapted to the establishment and its personnel, and on occupational health measures and social services that May be required. In establishments employing night workers, such consultation should take place regularly. | In what ways are changes to work schedules agreed upon and introduced?   | Participation of workers' representatives in the definition of work schedules.  |
| The above provisions regarding night work may be implemented through the collective bargaining agreement   | <p>How are night work provisions implemented?</p> <p>Have the provisions for night work been negotiated with the workers' representatives, and are they included in the collective bargaining agreement?</p> | Provisions for night work are included in the collective bargaining agreement.  |

## Documents Needed

1. Medical certificates for workers performing night work
2. Copy of the collective bargaining agreement
3. Copy of project policy effectively communicated to all workers, management, contractors addressing protections and alternatives to night work for pregnant women and new-mother night workers
4. Reports from labor ministry or other responsible government authority on complaints about project practices toward women night workers in the event of pregnancy or maternity
5. Copies of financial compensation schedules for night work and day work
6. Copy of salary level for alternative day work during pregnancy compared with usual salary level



7. Confidential statements from workers—in particular, women workers, management, and human rights NGOs—on project policies and practices concerning pregnant and new-mother night workers
8. Project policy effectively communicated to all workers and management on dismissal protections for workers certified as unfit for night work and for workers found to be unable to work for health reasons
9. List of number of workers assigned alternative day work when considered unfit for night work
10. Confidential statements from workers, management, and human rights NGOs on project policies and practices on nondisclosure to third parties of worker health information
11. Copy of procedures taken to inform night workers and to prevent related problems
12. Records of number of workers who have received health assessments before and at regular intervals during night work assignments
13. Copy of procedures for maintaining the secrecy of records on workers health certifications.

### Site Visit

Confidential interviews with the following:

1. Local human rights NGOs, church leaders, academics, business leaders, and chamber of commerce to detect violations or other problems relating to night work, financial remuneration, health of night workers, or the job circumstances of pregnant women and new-mother night workers
2. Random and representative sample of union-organized and non organized project workers across areas of responsibility (offsite whenever possible), to obtain their input on violations or other problems relating to night work, frequency of medical examinations for night workers, whether workers are required to contribute to the cost of night-worker health examinations, financial remuneration for night work, problems experienced by pregnant women or new mothers, and adverse health consequences caused by night work
3. Trade union or other worker organization representatives (offsite whenever possible), on violations or other problems relating to night work, terms in the collective bargaining agreement on night work, pregnant women and new mothers, frequency of medical examinations, whether workers are required to contribute to the cost of health examinations, financial remuneration for night work, and health consequences suffered by workers
4. Selected members of project management (offsite whenever possible), on violations or other problems relating to night work at the project
5. Project medical clinic or local hospital staff, to ascertain the number of fatigue-related injuries from night work, common ailments associated with night work, and the prevalence of such ailments among project night workers.

### Best Practices<sup>2</sup>

1. Project workers should be offered the choice between night and day work.
2. Normal night-work hours should not exceed 8 hours during any 24-hour period.
3. The normal work hours of night workers are less on average than those of workers performing the same work to the same requirements by day.
4. Project work is organized to avoid overtime by night workers before or after a daily period of work that includes night work.

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<sup>2</sup> Best Practices 2 through 11 are adapted from Night Work, Recommendation 178 (1990).

5. In project duties involving special hazards or heavy physical or mental strain, no overtime should be performed by night workers before or after a daily period of work that includes night work, except in cases of force major or of actual or imminent danger or emergency.
6. Where shift work involves night work, the following apply:
  - a. Two consecutive full-time shifts should never be permitted for the same worker except in cases of force major or of an actual or imminent accident.
  - b. A rest period of at least 11 hours between two shifts should be guaranteed as far as possible.
7. Daily periods of work that include night work include a break or breaks to enable workers to rest and eat.
8. Financial compensation for night work should be additional to the remuneration for the same work performed to the same requirements during the day. By agreement, it may be converted to reduced working time.
9. In determining the content of the tasks assigned to night workers, the project should consider the nature of the night work, the effects of environmental factors, and types of work duties. The project must pay special attention to factors such as toxic substances, noise, vibration, and lighting levels, as well as to forms of work duties that involve heavy physical or mental strain.
10. The project assists night workers in transport by coordinating between the starting and finishing times of daily periods of work that include night work and the schedules of local public transport services; and by providing transport for night workers where public transport services are not available. These measures will avoid or reduce additional traveling expenses for night workers and improve their personal safety when traveling to and from the project work site at night.
11. The project makes food and beverages available at the work site suitable for consumption at night, and it provides access to facilities where workers can prepare and eat food that they have brought to the site.

### 4.3 Rest and Leave

Work is necessary, but it is not the only important dimension of life activities. Continuous work without adequate opportunity for rest, relaxation, and recreation can have long-term negative ramifications for workers' productivity, morale, and physical well-being. Remuneration for employment should afford a worker with more than the necessities of food, clothing, shelter, and medical care. Salary and terms of employment should provide the means to take leave or vacation in order to enjoy and engage in personal, family, cultural, and educational responsibilities and activities.

In recognition of the importance of appropriate rest and leave periods for enhancing worker productivity and well-being, the ILO created standards governing the circumstances for taking leave for holiday and rest. These standards prescribe short breaks, as well as longer periods for lunch and dinner during normal work hours, and a minimum of 24 consecutive hours of uninterrupted rest in a seven-day period, with the aim of increasing this weekly period to a 36-hour rest period. The setting of a 24-hour rest period was among the earliest ILO standards, articulated in Weekly Rest (Industry) Convention 14 (1921). ILO norms also call for employers to respect workers' religious holidays, including those of religious minorities whenever possible. In the context of worker holiday/leave, more-recent ILO standards call for an annual vacation period of at least three working weeks, beginning with the first year of service (Convention 132, revised 1970).

## Requirements

### ***Convention 14: Weekly Rest (Industry), 1921***

1. The whole project staff shall, except as otherwise provided for by the provisions below, enjoy in every period of seven days, a rest period comprising at least 24 consecutive hours (Article 3).
2. The weekly rest period shall, whenever possible, be granted simultaneously to the whole of the staff of the project (Article 3).
3. The weekly rest period shall, whenever possible, coincide with the days already established by the traditions or customs of the country or district (Article 3).
4. When the weekly rest period is given to the whole staff collectively, the project management shall make known such days and hours of collective rest by means of notices posted conspicuously at the project work site and at other convenient locations (Article 7).
5. Where the weekly rest period is not given to the whole staff collectively, the project management shall make known (by means of a roster drawn up in accordance with the method approved by the legislation of the country, or by a regulation of the competent authority) the workers or employees who are subject to a special system of rest, and to indicate that system (Article 7).

### ***Convention 132: Holidays with Pay, revised 1970***

1. Every project worker is entitled to at least three weeks of holiday annually with pay after one year of continuous service (Article 3).
2. Workers whose length of services is less than required for the full entitlement shall be entitled to paid leave proportional to the length of services (Article 4).
3. The length of employment required for paid leave must not exceed six months (Article 5).
4. Absence from work for reasons beyond the control of the employed person concerned, such as illness, injury, or maternity, shall be counted as part of the period of service (Article 5).
5. The annual holiday leave shall not include public and customary holidays, or interruptions of attendance at work because of sickness (Article 6).
6. All workers entitled to holiday paid leave shall receive the usual remuneration prescribed by national laws or regulations, including the cash equivalent for remunerations in kind or determined through the appropriate mechanisms (Article 7).
7. The amounts due for the holidays shall be paid in advance of the holidays, if not otherwise established by a valid agreement between the employee and employer (Article 7).
8. The annual holiday with pay may be divided into parts if authorized by the competent authority or appropriate machinery in the host country (Article 8).
9. One part of the paid holiday should consist of at least two uninterrupted working weeks if not otherwise agreed upon between the employer and the employee (Article 8).
10. The uninterrupted holidays shall be taken and granted no later than 18 months following the year of the holiday entitlement (Article 9).
11. Annual holiday exceeding the national or industry sector minimum may be postponed with the consent of the employed person (Article 9).

**Table 4.3. Requirements Related to Weekly Rest and Paid Holidays**

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <b>Convention 14: Weekly Rest (Industry), 1914</b>  |  |  |
| The whole project staff shall enjoy in every seven-day period at least 24 consecutive hours of rest.  | How many rest days does each workers have per week, per month, and per year? How long are these rest days?   | Percentage of workers having at least 24 hours rest in every seven-day period.   |
| This weekly rest period is granted simultaneously to all project staff.   | Are rest periods granted to all workers at the same time? If not, why not?   | Percentage of workers having their period of rest at the same time.  |
| The weekly rest period coincides with days already established by national or regional custom or tradition.   | On which days are the weekly rest periods granted at the project?  | Data confirming the weekly rest period by custom or tradition in the country or district.  |
| When the weekly rest period is given simultaneously to the whole project staff, management posts notices conspicuously.   | Is the weekly rest period given simultaneously to the whole project staff? If so, how is the information conveyed to all staff?  | Notices posted conspicuously at project site with details of the weekly rest periods.  |
| When the weekly rest period is not given to the whole workforce simultaneously, management prepares a roster in accordance with national law.<br><br>The roster provides the names of workers to whom this rest period pertains, and it informs all staff about this system and the names included. | If the weekly rest period is not given to the whole project staff simultaneously, how is the rest period executed? How does the project convey the information to all staff members? | Evidence of a roster prepared with names of all workers, including specific time for the weekly rest periods and information confirming that the whole staff is familiar with this system.                                   |
| <b>Convention 132: Holidays with Pay, revised 1970</b>  |  |  |
| Every project worker is entitled to at least three weeks of annual holiday with pay after a year of continuous service.   | How many days and weeks of paid holiday is each worker entitled to?<br><br>What is the annual minimally required paid leave under national law?                                      | Percentage of workers granted at least three weeks of paid holidays per year.<br><br>Policy on annual leave conforms with national law requirement or with a minimum of three full weeks of paid leave, whichever is higher. |
| Workers whose length of service is less than required for the full annual paid leave entitlement shall be entitled to receive paid leave proportional to their length of services.  | Are workers allowed to take paid leave proportional to the length of services before fulfilling the required work time for entitlement to annual leave?                              | Number of workers not given paid leave proportional to their length of service for the project.  |
| The length of employment for entitlement to paid leave must not exceed six months.  | After what period of employment are workers entitled to vacations?   | Percentage of workers entitled to paid holidays after six months of employment.  |
| Absence from work for reasons beyond the control of the employed person such as illness, injury, or maternity shall be included in the period of service.   | What kinds of absence from work are counted as part of the period of services?   | Number of days of absence during the past year that were beyond the control of the employed person, but were not counted in the period of services.  |

| Convention Requirements  | Questions   | Indicators  |
|--|---|---|
| The annual holiday leave shall not include public and customary holidays and interruptions of attendance at work due to sickness.  | Does the annual paid holiday include public and customary holidays?<br><br>Are workers obliged to use their days of paid holiday if they are unable to attend work because of sickness? | Number of public and customary holidays and days of absence due to sickness that were regarded as annual holiday.                                   |
| All workers entitled to holidays shall receive the usual remuneration prescribed by national laws or regulations, including the cash equivalent for the remunerations in-kind or as determined by law. | What remuneration are workers on annual leave paid in relation to salary paid while actually working?   | Incidence of workers receiving lower remuneration during paid leave than received during equivalent time on the job.                                |
| The amounts due for the holidays shall be paid in advance of the holidays if not otherwise established in an agreement between the employee and the employer.  | Are wages covering the period of holidays paid in advance of the holidays?  | Number of cases in which workers have not been paid their holiday pay prior to the holiday period.  |
| The annual holiday with pay can be divided into parts if authorized by the competent authority or appropriate national regulations.  | When can workers take their annual vacations with pay, and what are the rules for dividing it into parts?   | Workers' paid holiday schedules in compliance with national law.  |
| One part of the paid holiday should include at least two uninterrupted working weeks, if not otherwise agreed between the employer and the employee.   | Can all workers entitled to paid holidays take at least two uninterrupted weeks of holiday?   | Worker records indicate that workers receive at least two uninterrupted paid-leave weeks annually.  |
| Uninterrupted holidays shall be taken and granted no later than 18 months from the end of the year in which the holiday entitlement has arisen.  | What is the time span between the dates upon which workers are entitled to take holidays and the day upon which they are allowed to take their leave with pay?                          | Number of workers having to wait for more than 18 months from the day they become entitled to paid holidays to the day they can take their holiday. |
| Annual holiday periods that exceed the national/sector minimum may be postponed with the consent of the employee.  | Can workers and employers postpone the annual leave with pay if it exceeds the national or industry sector minimum?   | Interviews with workers reveal that they freely consented to postponement of annual paid holidays or leave.   |

## Documents Needed

1. Personnel management records, including the following:
  - a. The day of entry of each worker and the duration of the annual paid holiday entitled to each worker
  - b. Dates that each worker has taken or will take annual holiday
  - c. Remuneration received by each worker during the period of annual leave
  - d. Percentage of workers having at least 24 hours of rest during every seven-day period
  - e. Percentage of workers having their period of rest simultaneously
  - f. Percentage of workers granted at least three weeks of paid holidays per year

- g. List of actual number and percentage of workers entitled to paid holidays after six months of employment, and confirmation that these workers actually took the paid leave owed to them (If workers did not take their paid leave, what are their reasons for not doing so?)
  - h. For every worker, a list containing the number of days of absence during the past 12 months that have not been counted as period of service but were caused by illness, pregnancy, or other reasons beyond the control of the employed person
  - i. Number of public and customary holidays as well as days of absence due to sickness that the project treats as annual paid-holiday.
2. Data confirming the weekly rest period by custom or tradition in the country or district
  3. Copy of schedule with names of all workers, with time of their specific weekly rest periods indicated, and with information confirming that this system is known to the whole staff
  4. Copy of project policy on annual leave
  5. Report from Labor Ministry or other responsible governmental (judicial) authority on violations of national weekly rest period or annual leave laws at the project.

### Site Visit

1. Review project site to confirm placement of notices posted conspicuously that provide details to all staff on weekly rest periods.
2. Confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, business leaders, and chamber of commerce to detect problems concerning weekly rest period, annual paid holiday leave, or related considerations
  - b. Random and representative sample of union-organized and non organized project workers across areas of responsibility (offsite whenever possible), to obtain their input on violations or other problems relating to weekly rest periods, annual paid holiday leave, or related considerations
  - c. Trade union or other worker organization representatives (offsite whenever possible), on violations or other problems relating to weekly rest periods, annual paid holiday leave, or related considerations
  - d. Selected members of project management (offsite whenever possible), on existence or absence of violations or other problems relating to weekly rest period, annual paid holiday leave, or related considerations.

### Best Practices

1. Establish a merit-based company policy for paid leave for educational purposes in which the educational activity directly enhances the worker's job performance at the project. This policy could be coordinated with the project's general employment policies relating to education and training, and it could be made compatible with seasonal variations in hours and volume of work.
2. Offer paid leave for workers to undertake education for trade union activities. Where trade union organizations carry out trade-union education courses, they should be responsible for planning, approving, and implementing the programs.
3. Support and subsidize available education and training facilities for employee-paid educational leave and establish new facilities to meet the education and training purposes of employee-paid educational leave.
4. Provide workers with at least five weeks of paid vacation per year.

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5. Subsidize the operation and maintenance of hotels and other in-country holiday facilities for the use of project workers on leave.
6. Maintain swimming pools, ball courts, and other sports and recreation amenities for workers and their families for weekly rest period activities.

## 5. SOCIAL SECURITY

Social security and access to affordable medical care are central to the welfare and long-term protection of the labor force. Several ILO conventions and recommendations concern the promotion of social security for workers and their families. The basic instrument is Social Security Minimum Standards Convention 102 (1952), which sets out standards for medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity, and survivor's benefits. Individual conventions also address these areas—for example, Sickness Insurance for Industry Convention 24 (1927), Medical Care Recommendation 69 (1944), and Medical Care and Sickness Benefits Convention 130 (1969). The ILO tasks each government with primary responsibility for establishing the structures to administer worker benefits. The employer's obligation, however, is to provide partial financing for national health insurance and for worker injury compensation schemes.<sup>1</sup>

### 5.1 Medical Care and Sickness Benefits

Affordable medical care and sickness benefits, along with other forms of social security, are central to the welfare and long-term productivity of a labor force. In general, governments set up nationally funded social security sickness, injury, and health-care systems. The industrialized nations of Western Europe, North America, and Japan have well-developed, adequately resourced social security regimes to ensure that ill, injured, and retired workers receive adequate financing to cover their needs.

The national social security systems in most Latin American and Caribbean countries lack the financial and technical resources to provide effective benefits for all eligible persons. As a result, many workers who become ill or are too old to work become extremely vulnerable financially and physically. Where national social security regimes cannot provide benefits to cover the living expenses of injured and ill workers or new mothers on maternity leave, these guidelines recommend that projects create their own social safety nets. Projects should assume responsibility for assisting workers who experience unemployment, old age, accident and injury, sickness, and circumstances that otherwise compromise their capacity to earn income.

Beyond obvious resource constraints, eligibility for social security benefits under national schemes is typically a complex matter. In many countries, certain categories of laborers are statutorily or otherwise excluded from national social security benefits. Seasonal workers, casual laborers, apprentices, foreign migrant workers, part-time workers, and persons on short-term contracts are often excluded under national law. In the context of foreign migrant workers, the Migrant Workers' Supplementary Provisions (Convention 143, 1975) expressly calls for equal treatment with respect to employment and social security protection. (The application of this convention is addressed more thoroughly in these guidelines under the thematic category of Migrant Workers.)

It has become common practice in certain industries to not hire the majority of the workforce as permanent staff, thereby obviating legal obligations to co-pay sickness and social security benefits.<sup>2</sup> In accordance with current international standards, projects should attempt to not permit workers to be characterized as “casual,” “seasonal,” “apprentice,” “short-term contract,” or any other classification that serves the purpose of obviating payment of project-generated or nationally established social security benefits.

<sup>1</sup> For example, see Medical Care Recommendations Number 69 (1944), Article 1.4 (c), which says that “the service should be financed by contributions from insured persons, from their employers, and by subsidies from public funds.”

<sup>2</sup> For example, see “Coffee Workers in Guatemala: A Survey of Working and Living Conditions on Coffee Farms,” *COVERCO* (February 2000); and International Labour Organization, *The Construction Industry in the Twenty-First Century: Its Image, Employment Prospects, and Skill Requirements* (Geneva: ILO, 2001).



Several ILO instruments deal with institutionalizing medically related social security coverage for workers and their families. The basic instrument is Social Security Minimum Standards Convention 102 (1952). Article 6 permits governments to take account of private health-insurance schemes, which can be set up and administered by employers or jointly by employers and workers. The employer's only clear obligation, however, is to provide partial financing to national health insurance and worker injury compensation schemes.<sup>3</sup>

Additionally, Sickness Insurance for Industry Convention 24 (1927) tasks the national government with primary responsibility for establishing structures to administer benefits to the worker. Because responsibility for implementation rests with the national government, not private enterprises, these guidelines will not address its content in any further detail.

### Requirements

#### *Convention 24: Sickness Insurance (Industry), 1927*

The project and workers shall share the costs of providing financing for the national sickness insurance system (Article 7).

**Table 5.1. Requirements Related to Medical Care and Sickness Benefits**

| Convention Requirements  | Questions   | Indicators  |
|--|---|---|
| <b>Convention 24: Sickness Insurance (Industry), 1927</b>  |   |   |
| The project and workers shall share the payment costs for the national health and sickness insurance system. | <p>Are all workers covered by a sickness insurance system?</p> <p>How is this insurance system financed?</p> <p>What percentage is paid by the project, and what percentage is paid by individual workers?</p> <p>Does the national system provide adequate health and sickness insurance coverage for workers?</p> <p>Have the union and the project negotiated a health insurance plan for workers?</p> <p>If the national system's coverage is inadequate, does the project provide supplemental private coverage for its workforce?</p> | <p>The project payment share into the national sickness insurance system complies with the amount required under national law.</p> <p>Complaints registered with government authorities, NGO, trade unions, or project management regarding the project's paid share of insurance costs.</p> <p>Collective bargaining agreement contains provisions ensuring protection of workers under national social security system, or project management and worker representatives have agreed on a supplemental private social security program to ensure effective medical and sickness coverage for workers.</p> |

### Documents Needed

1. Copy of social security health insurance cards for each worker
2. Copy of the project's contribution to the national social security system in relation to each worker's medical and sickness benefits

<sup>3</sup> Article 6 (a). Also, see Article 1.4 (c) of the nonbinding Medical Care Recommendation Number 69 (1944), which stipulates that "the service should be financed by contributions from insured persons, from their employers, and by subsidies from public funds."

3. A list with names, job titles, and duties of workers who are exempted from contributing to the national social security system
4. Copy of the collective bargaining agreement
5. Copy of provisions of any national law that deals with respective shares to be paid by employers and workers to national insurance programs
6. Copies of complaints registered with government authorities, NGOs, trade unions, or project management regarding the project's payment or nonpayment of its share of insurance costs for workers.

### **Site Visit**

Confidential interviews should be conducted with the following:

1. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine the effectiveness of the national social security system in providing benefits to project workers, and whether project management has used short-term contracts, apprenticeships, casual labor, and similar categorizations to obviate contributions to the national social security system
2. Random and representative sample of union-organized and nonorganized project workers across areas of responsibility (offsite whenever possible), on the issues in point above
3. Trade union or other worker organization representatives (offsite whenever possible), on the issues in first point above
4. Selected members of project management (offsite whenever possible), on the issues in first point above.

### **Best Practices**

1. Where the national social security system is weak, ineffective, or unable to adequately cover benefits to workers for pensions, maternity, old age, health-care costs, on-the-job injury, invalidity, and accident payments, the project should make the necessary arrangements to create an alternative system for its workforce. ILO standards that can provide a basis for crafting coverage can be found in Conventions 17, 42, 44, and 121 (in case of injury, invalidity, and unemployment) and in Conventions 128 and 130 (for old age and survivors benefits, and medical care and sickness benefits, respectively).
2. The project should not resort to use of “seasonal,” “casual,” “apprentice,” “short-term contracts,” or similar hiring arrangements to circumvent legal obligations for providing social security under national labor laws.
3. The project should ensure that persons who are hired under short- or fixed-term contracts, apprenticeship programs, and casual or seasonal labor classifications are accorded the same national or project-supported social security protections as provided to the permanent workforce.
4. The project should not require workers with incomes less than the national subsistence level to make monetary contribution to private health-insurance programs set up by the project. Such costs should be considered as demonstrations of corporate social responsibility to the local community.

## **5.2 Maternity Benefit**

The right to a maternity benefit is linked to other labor rights on the protection of women from workplace discrimination based on pregnancy or motherhood.<sup>4</sup> In fact, the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) expressly addresses discrimination against pregnant women and

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<sup>4</sup> For more information, see the thematic subcategory of the Guidelines on Equality of Opportunity and Treatment.

new mothers in the context of employment protection and social security benefits.<sup>5</sup> Maternity Protection Convention 183 (2000) characterizes the circumstances of women workers and the need to provide pregnancy protection as “a shared responsibility of government and society.”

The ILO codifies the right to maternity benefit in several instruments—in particular, Maternity Protection Convention 3 (1919), Maternity Protection Revised Convention 103 (1952), and Maternity Protection Convention 183 (2000). These texts provide for cash benefits during the period of maternity leave and for related medical costs through compulsory social security insurance systems or other public funds. Pursuant to Convention 103, the benefit provided must be no less than two-thirds of the woman’s previous earnings if the benefit is provided under an insurance program and is based on her earnings. These instruments also provide that an employer cannot dismiss a woman while she is on maternity leave, nor give her notice of dismissal at such time that the notice would expire while she remains on leave.

Existing ILO conventions address the right to maternity leave, but they do not specify how much payment is to be received nor who is responsible for providing payments (the government or the employer). With regard to the role of the employer, Maternity Protection Recommendation 191 (2000) states that any “contribution due under the compulsory social insurance providing maternity benefits and any tax based upon payrolls which is raised for the purpose of providing such benefits, whether paid by both the employer and the employees or by the employer, should be paid in respect of the total number of men and women employed, without distinction of sex.”<sup>6</sup> Where the social security system is ineffective in delivering the maternity benefit, best practice calls for the project taking responsibility for the worker’s salary during maternity leave, and that salary should be sufficient to maintain herself and her family.

The most recent ILO convention on this issue, Maternity Protection Convention 183 (2000) only states that “cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living,” and that where cash benefits are based on the woman’s previous earnings, “the amount of such cash benefits shall not be less than two-thirds of the woman’s previous earnings or of such as those earnings as are taken into account for the purpose of computing benefits.”<sup>7</sup> While few countries have ratified Convention 183, it does provide but this instrument provides useful normative principles.

## Requirements

### *Convention 3: Maternity Protection, 1919*

1. A woman shall not be permitted to work during the six weeks following childbirth (Article 3).
2. A woman shall have the right to leave her work if she produces a medical certificate stating that the childbirth will probably take place within six weeks (Article 3).
3. If she is nursing her child, a woman shall be allowed half an hour twice a day during her working hours for this purpose (Article 3).
4. If a woman is absent from her work due to pregnancy and childbirth as stipulated in provisions 1–3 above, or if she must be absent from her work for a longer period because of medically certified illness related to pregnancy or childbirth, the project is legally prohibited from giving her notice of dismissal during such absence. Similarly, the project cannot give her notice of dismissal at such time that the notice would expire during her absence (Article 4).

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<sup>5</sup> For examples, see Article 11, paragraph 2, subsections (a) through (d); and Article 12, paragraphs 1 and 2, UN Convention on the Elimination of All Forms of Discrimination against Women, entered into force September 3, 1991. Available at: <http://www.un.org/womenwatch/daw/cedaw>.

<sup>6</sup> ILO Recommendation Number 191 (2000), Article 4.

<sup>7</sup> ILO Convention 183 (2000), Article 6, paragraphs 2 and 3.

**Convention 103: Maternity Protection, 1952 (revising Convention 3)**

1. Upon production of a medical certificate stating the presumed date of her childbirth, a woman is entitled to a period of maternity leave of at least 12 weeks, including a period of compulsory leave after childbirth (Article 3).
2. The period of compulsory leave after childbirth must be at least six weeks (Article 3).
3. The leave before the presumed date of childbirth shall be extended by any period elapsing between the presumed date of childbirth and the actual date of confinement, and the period of compulsory leave to be taken after confinement shall not be reduced on that account (Article 3).
4. In case of medically certified illness arising out of pregnancy, national laws or regulations shall provide for additional leave before childbirth, the maximum duration of which may be fixed by the competent authority (Article 3).
5. In case of medically certified illness arising out of childbirth, the woman shall be entitled to an extension of the leave after the birth, the maximum duration of which may be fixed by the competent authority (Article 3).
6. During her absence from work on maternity leave, a woman is entitled to receive cash and medical benefits (Article 4).
7. If a woman is nursing her child, she is entitled to interrupt her work for this purpose at a time or times prescribed by national laws or regulations (Article 5).
8. Interruptions of work for nursing are to be counted as working hours and remunerated accordingly in cases in which the matter is not governed by or in accordance with laws and regulations. In cases in which the matter is governed by collective agreement, the position shall be as determined by the relevant agreement (Article 5).
9. While a woman is absent from work on maternity leave, the project is legally prohibited from giving her notice of dismissal during such absence, nor can it give her notice of dismissal at such a time that the notice would expire during her absence (Article 6).

**Table 5.2. Requirements Related to Maternity Benefits**

| Convention Requirements   | Questions   | Indicators  |
|---|---|---|
| <b>Convention 3: Maternity Protection, 1919</b>   |   |   |
| A woman shall not be permitted to work during the six weeks following childbirth.   | How many weeks of leave is a woman granted after giving birth?                        | Number of women working during the six weeks following childbirth.                          |
| A woman has the right to leave work upon production of a medical certificate stating that the childbirth will probably take place within six weeks. | How many weeks prior to childbirth are women granted maternity leave?                 | Project policies and procedures for granting maternity leave.                               |
| A woman is allowed half an hour twice a day for nursing her children during working hours.  | How many daily breaks are women workers allowed to take while nursing their children? | Project records substantiating number and lengths of breaks granted daily to nursing women. |

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| If a woman is absent from work due to pregnancy and childbirth or is absent longer because of medically certified illness arising out of pregnancy or childbirth, the project is prohibited from giving her notice of dismissal or dismissing her when the notice would expire during her absence. | Have any women absent from work due to pregnancy or any illness arising from pregnancy been dismissed?                                       | Number of women that have been dismissed during absence from work due to pregnancy or illness arising from pregnancy.  |
| <b>Convention 103: Maternity Protection, Revised 1952</b>  |  |  |
| Upon production of a medical certificate stating the presumed date of her childbirth, a woman is entitled to at least 12 weeks of maternity leave, including a period of compulsory leave after giving birth.  | As a project policy, how many weeks of maternity leave are women granted?  | Project policies on maternity leave and number of women granted 12 weeks of maternity leave.   |
| The period of compulsory leave after childbirth must be at least six weeks.  | How many weeks of maternity leave are women granted after giving birth?<br>How many weeks are required under national law?                   | Number of women granted six-weeks maternity leave after childbirth.<br>Project policy on maternity leave after childbirth conforms with the national law or six weeks, whichever is greater. |
| Maternity leave before the presumed date of confinement shall be extended by any period elapsing between the presumed date of confinement and the actual date of confinement, and the period of compulsory leave after childbirth shall not be reduced on that account.                            | Are women granted additional leave for the period that may elapse between the presumed date of childbirth and the actual day of confinement? | Number of women granted additional leave due to discrepancy between the planned and actual day of childbirth.  |
| In case of medically certified illness arising out of pregnancy, national laws or regulations shall provide for additional leave before childbirth, the maximum duration of which may be fixed by the competent authority.   | Are women granted additional leave prior to the childbirth if they can document illness related to pregnancy or confinement?                 | Policies and procedures in place for providing women additional leave prior to childbirth due to illness.  |
| In case of medically certified illness arising out of confinement, the woman is entitled to an extension of the leave after childbirth, the maximum duration of which may be fixed by the competent authority.   | Are women granted additional leave after confinement if they can document illness related to pregnancy or childbirth?                        | Policies and procedures in place for providing women additional leave after childbirth due to illness.   |
| During her absence from work on maternity leave, a woman is entitled to receive cash and medical benefits.   | What benefits do women on maternity leave receive?<br>Who provides these benefits?   | Women on maternity leave are receiving medical benefits and cash either from the project directly or from the national social security system.   |
| A woman is entitled to interrupt work for nursing at times to be prescribed by national laws or regulations.   | How many daily breaks are women workers allowed to take while nursing?   | Number and lengths of breaks granted daily to nursing women.   |

| Convention Requirements   | Questions   | Indicators   |
|---|---|--|
| Work interruptions for nursing are counted as working hours and remunerated accordingly unless national law does not address this issue and it is otherwise stipulated under a collective bargaining agreement. | Are hours for taking breaks for nursing counted as working hours?   | Number of hours for breaks that are regarded as part of working hours.<br><br>Women on maternity leave receive medical benefits and cash, either from the project directly or from the national social security system.<br><br>Provisions of the collective bargaining agreement relating to nursing breaks. |
| While absent from work on maternity leave, a woman cannot be given notice of dismissal. Similarly, the project cannot dismiss her if the notice would expire during her absence.                                | Have any women been dismissed who were absent from work due to pregnancy or illness arising from pregnancy? | Number of women dismissed during absence from work due to pregnancy or illness arising from pregnancy.   |

### Documents Needed

1. Project policy on maternity leave, including procedures for granting maternity leave
2. Provisions of the collective bargaining agreement relating to nursing breaks and maternity leave
3. Project records on the following:
  - a. Number of women working during the six weeks following their confinement
  - b. Number and lengths of breaks granted daily to nursing women
  - c. Number of women that have been dismissed during absence from work due to pregnancy or illness arising from pregnancy
  - d. Women on maternity leave and amount of medical benefits and cash they actually receive, either from the project directly or from the national social security system.
4. Provisions of the national law relating to required maternity leave after confinement
5. Copy of the collective bargaining agreement.

### Site Visit

1. Interview (offsite where possible) of women workers who recently have had children, regarding the status of the project's maternity leave practices
2. Confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce to determine the project's respect for and observance of national laws on maternity leave protections and treatment of working women who have become pregnant
  - b. Random and representative sample of union-organized and nonorganized project workers across areas of responsibility (offsite wherever possible), for input on the issues in the point above
  - c. Trade union or other worker organization representatives (offsite wherever possible), on the issues in first point above
  - d. Selected members of project management (offsite wherever possible), on the issues above.

## **Best Practices**

1. Structure the project maternity leave policy to accomplish the following:
  - a. Afford a period of maternity leave of not less than 14 weeks upon presentation of a medical certificate stating the presumed date of the child's birth.
  - b. Pay women on maternity leave a salary that allows them to provide for their family and live a decent life.
2. Grant fathers paid leave during or after the mother's maternity leave.
3. Where the national laws are not developed on establishing maternity leave protections that conform with the standards set out in Conventions 103 and 183, or where the national social security system is ineffective in providing adequate maternity benefits to pregnant women and new mothers, the project should create an alternative maternity protection system.

## 6. SPECIAL PROVISIONS BY CATEGORY OF PERSONS

As outlined in the Guideline Section 2.4 “Elimination of Child Labor”, protecting minors from workplace hazards and from abusive forms of labor has long been a paramount issue for the International Labour Organization. It is also an important issue for the ILO’s sister organizations in the United Nations system,<sup>1</sup> and among multilateral development finance institutions. In addition, these organizations are also concerned about the issues of women, indigenous and tribal peoples, and migrant workers.

### 6.1 Children and Young People

Beginning with the adoption of Minimum Age (Industry) Convention 5 (1919), which prohibits children under 14 years of age from working in industrial establishments, the ILO has produced nine sector-specific conventions on minimum age for employment, including industry, agriculture, trimming and stoking, maritime activities, fishing, underground activities, and non industrial employment. The protections articulated in these instruments have been consolidated, expanded, and updated in the more recent ILO Minimum Age Convention 138 (1973) and ILO Worst Forms of Child Labor Convention 182 (1999).

Convention 182 provides that children and young people under the age of 18 shall be protected from the worst forms of child labor, which according to Article 3 of that instrument is work, “which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.” ILO Recommendation 190 elaborates the categories of work falling into Article 3(d)’s proscription as “Hazardous Work”:

- Work exposing the person to physical, psychological, or sexual abuse
- Work underground, underwater, at dangerous heights, or in confined spaces
- Work with dangerous machinery, equipment, and tools, or that involves manual handling or transporting of heavy loads;
- Work in an unhealthy environment, which may expose the person to hazardous substances, agents, or processes or to health-damaging temperatures, noise levels, or vibrations
- Work under particularly difficult conditions, such as for long hours or during the night or where the person is unreasonably confined to a specific work site.

The above list is particularly relevant to projects that involve large-scale construction, transportation, and infrastructure activities requiring the use of heavy machinery or dangerous chemicals, and that often involve high noise levels and long hours, including night work.

The following conventions contain measures that can be used to monitor, protect, and prevent, when necessary, young workers from engaging in the kinds of hazardous work noted above. Conventions 6 and 90 prohibit young workers from participating in night work. Convention 77 requires that workers under the age of 18 must be given ongoing medical examinations to assure that the work they perform does not adversely affect their health.

### Requirements

#### ***Convention 6: Night Work of Young Persons (Industry), 1919***

1. Young persons under 18 years of age shall not be employed during the night. (Article 2).<sup>2</sup>

<sup>1</sup> For example, under the auspices of the UN Office of the High Commissioner for Human Rights, the United Nations adopted the Convention on the Rights of the Child (entered into force 2 September 1990), <http://www.un.org/>.

<sup>2</sup> The term *night* signifies a period of at least 11 consecutive hours, including the interval between 10 o’clock in the evening and 5 o’clock in the morning. (Convention 6, Article 3).



2. In tropical countries in which work is suspended during the middle of the day, the night period may be shorter than 11 hours if compensatory rest is accorded during the day (Article 3).

**Convention 90: Night Work of Young Persons (Industry), Revised 1948**

1. Young persons under 18 years of age shall not be employed or work during the night (Article 3).<sup>3</sup>
2. In countries where the climate makes it difficult to work throughout the day, the night interval may be shorter than that otherwise prescribed, so long as the young worker is given equivalent compensatory rest during the day (Article 4).

**Convention 77: Medical Examination of Young Persons (Industry), 1946**

1. Persons under 18 years of age shall not be employed unless a thorough medical examination determines that they are fit for the work to be performed (Article 2).
2. The medical examination for employment fitness shall be carried out by a qualified physician approved by the competent authority, and the examination shall be certified either by a medical certificate or by an endorsement on the work permit or in the workbook (Article 2).
3. The document certifying fitness for employment may be issued either as subject to specified conditions of employment or for a specified job or for a group of jobs or occupations involving similar health risks (Article 2).
4. The fitness of a young person for the employment in which he/she is engaged shall be subject to medical supervision until he/she has attained the age of 18 years; such medical examinations shall be conducted at intervals of not more than a year or as defined by the competent authority (Article 3).
5. Neither the young person nor his/her parents shall incur any expenses for medical examinations required to take or keep a job (Article 5).
6. The project shall file and keep available for labor inspectors either the medical certificate for employment fitness or the work permit or workbook showing that there are no medical objections to employment of the young person, as may be prescribed by national laws or regulations (Article 7).

**Table 6.1. Requirements for Night Work and Medical Examination of Young Persons**

| Convention Requirements  | Questions   | Indicators   |
|--|---|--|
| <b>Convention 6: Night Work of Young Persons (Industry), 1919</b>  |   |  |
| Persons under 18 years of age shall not be employed during the night.  | How many workers under 18 years old are employed at the project?<br>What shifts and working hours are assigned to workers under 18 years old? | System in place to keep persons under 18 years old from working at night.<br>Number of persons under 18 years old doing night work.        |
| In countries where work is suspended during the middle of the day, the night period may be shorter than 11 hours if equivalent | Are night hours used to compensate for day work due to the climatic conditions of the region?<br>How many persons under 18 work night         | Existence of a customary practice for suspension of work hours during midday due to heat/climate in the region, which is employed by other |

<sup>3</sup> For the purpose of this Convention the term *night* signifies a period of at least 12 consecutive hours. In the case of young persons under 16 years of age, this period shall include the interval between 10 o'clock in the evening and 6 o'clock in the morning. In the case of young persons who have attained the age of 16 years but are under the age of 18, this period shall include an interval prescribed by the competent authority of at least seven consecutive hours falling between 10 o'clock in the evening and 7 o'clock in the morning (Convention 90, Article 2).

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| compensatory rest is accorded during the day.   | hours due to extended rest period during the day? How long is the daytime rest period?<br>How are persons under 18 years old compensated for night work?   | projects in the locale.<br>Total number of workers engaging in extended night hours due to midday work suspension compared to number of those workers under 18 years old.  |
| <b>Convention 90: Night Work of Young Persons (Industry), Revised 1948</b>  |  |  |
| Persons under 18 years of age shall not work during the night.  | How many workers under 18 are employed?<br>What shifts are assigned to workers under 18?   | System in place to keep young persons from working at night.   |
| In countries where the climate makes it difficult to work throughout the day, the night interval may be shorter than prescribed if the worker under 18 years old is given equivalent rest during the day.     | Do persons under 18 years of age work night hours due to the climatic conditions of the region?<br>How many persons under 18 years of age work night hours due to extended rest period during the day?<br>How does the project address compensating persons under 18 years of age for performing night work? | Existence of a customary practice for midday suspension of work hours due to the heat/climate in the region.<br>Total number of workers engaging in extended night hours due to midday work suspension compared to number of persons under 18 years engaged in night work.   |
| <b>Convention 77: Medical Examination of Young Persons (Industry), 1946</b>   |  |  |
| Persons under 18 years of age shall not be admitted to employment unless a thorough medical examination finds them fit for the work to be performed.  | Are workers under the age of 18 subject to a mandatory medical examination prior to beginning employment?  | Project policy in place for regular medical examination of all workers under the age of 18 to be given prior to employment and regularly thereafter.<br>Records confirming that this policy is effectively implemented at the project.<br>Record of number of persons under 18 years not found fit for project work. |
| The medical examination for employment fitness shall be carried out by an approved, qualified physician and shall be certified by a medical certificate, or by an endorsement on the work permit or workbook. | What doctor(s) or health clinics are used to examine workers under 18?<br>What criteria does the project use to ensure that these medical practitioners are qualified to perform these fitness examinations? How is the certification of the examination recorded for each young person?                     | Project has policies and procedures in place to ensure that qualified and competent physician(s) conduct all medical examinations.<br>Records demonstrating that medical examinations have been given to all workers under 18 at time they began project work.   |
| The document certifying employment fitness may be issued either as subject to specific conditions of employment, for a specified job, or for a group of jobs involving similar health risks.                  | What is the format and content of the health certification?<br>Does the certificate list restrictions on tasks or job duties, based on the determination made in the physical examination?   | Existence of medical certificates on file for all young workers under 18 at project.   |

| Convention Requirements   | Questions   | Indicators  |
|---|---|---|
| Fitness for employment of persons under 18 shall be subject to medical super-vision until the worker has attained 18 years of age. Such medical examinations should be conducted at least once per year or as defined by the competent authority. | How often are workers under 18 years old subject to medical examination?  | Project policy with implementation system for regular and appropriate medical examination of all workers under the age of 18.     |
| Neither the young person nor his/her parents shall incur any expenses for medical examinations required for taking or keeping a job.  | Do workers or job applicants under 18 years of age or their families ever pay some or all of the costs for the medical examination? | Project records showing number of persons receiving medical examinations and whether any fees were charged for such examinations. |
| The project must file and keep available for labor inspectors documentation showing no medical objections to the employment   | How and where does the project file and maintain the medical certificates and work permits of workers under 18 years old?           | Available files with health certificates on all workers under the age of 18.  |

### Documents Required

1. List of the working hours and job duties performed by all workers under 18 years old
2. Copies of medical certificates and work permits for all workers under 18 years old
3. Records showing number of persons receiving medical examinations and whether any fees were charged for such examinations
4. Copies of records ensuring regular and appropriate medical examination of all workers under 18 years old
5. Project policies and procedures for requiring that qualified and competent physicians shall be used to conduct all medical examinations
6. Records demonstrating whether medical examinations have been given to all workers under 18 years old when they began project work
7. Total number of workers engaging in extended night hours due to midday work suspension compared to number of persons under 18 years old engaged in such work
8. Existence of a customary practice for suspended midday work hours due to heat/climate in the region, which is employed by other projects in the locale
9. Policies in place to keep persons under 18 years of age from working at night.

### Site Visit

1. Conduct interviews with the doctor or health clinic that produces the medical certifications to establish the most common work-related diseases occurring among workers under the age of 18. Verify certification of this medical worker.
2. Conduct confidential Interviews with:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to determine the project's respect for and observance of national laws about night work and the employment of persons under 18 years of age for night work or hazardous work

- b. Random and representative sample of union-organized and non organized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on the project's respect for and observance of national laws about night work and the employment of persons under 18 years of age for night work or hazardous work
- c. Trade union and/or other worker organization representatives (offsite whenever possible), to obtain their input on the project's respect for and observance of national laws about night work and the employment of persons under 18 years of age for night work or hazardous work
- d. Selected members of project management (offsite whenever possible), to obtain their input on the project's respect for and observance of national laws about night work and the employment of persons under 18 years of age for night work or hazardous work
- e. Random and representative sample of project workers under 18 years of age (offsite whenever possible), to obtain their input on project's respect for and observance of national laws about night work and hazardous work for young persons, and the project's observance of required medical examination of young workers.

### Best Practices

1. Project offers to workers under 18 years old vocational counseling concerning possibilities for training and specialization for future work at the project or as preparation for seeking gainful employment elsewhere in the region.
2. Project provides workers under 18 years old possibilities for improvement of skills and specialization, that is, through apprenticeship programs.
3. Project offers to workers under 18 years old scholarships and leave in accordance with the provisions set out in ILO Paid Educational Leave Recommendation 148 (1974), as well as the possibility to work part-time.
4. Project establishes a policy that is effectively communicated, orally and in writing, to management, workers, and all contractors, and which contains remediation procedures to be taken should child labor be discovered at the project, within the meaning of ILO Conventions 59, 138, and 182 and ILO Recommendation Number 190.
5. Project ensures that all workers under 18 years of age are provided with secure transport to and from their homes.
6. If the project discovers or otherwise has notice that a person: under 15 years of age or under the nationally established minimum age (whichever is higher) is working, the project should (a) remove that person, immediately or as expeditiously as possible, in a non humiliating manner from the workplace, and (b) provide adequate support to the person and/or to that person's family, where appropriate, to enable the person to attend and remain in school until he/she reaches the nationally established minimum age or 15 years old, whichever is higher. When the young person attains 15 years of age, the project should use best efforts to hire him/her for general employment at the project or to locate appropriate employment elsewhere in the locale or region, whenever possible.
7. The project should provide education and monthly supplemental resources and/or adequate vocational training for all persons who were under the age of 15 years and who were removed/dismissed from the project due to implementation of these guideline requirements. These benefits should be extended to such persons until they reach 15 years of age. When the young person attains 15 years of age, the project should use best efforts to hire him/her for general employment at the project or to locate appropriate employment elsewhere in the locale or region, whenever possible.
8. If the project discovers or otherwise has notice that a person under 18 years of age is engaged in project work considered hazardous or otherwise likely to harm the person's health, safety, or morals, the project

should immediately or as expeditiously as possible, in a non humiliating manner, remove that person from such work and relocate him/her to duties/tasks or a workplace that is not harmful to his/her health, safety, or morals, in accordance with the prescriptions of ILO Recommendation 190.

### 6.2 Women

ILO instruments concerning women at work contain protections directed at what were formerly viewed as inappropriate or abusive working conditions for females. These conventions were enacted in the early 20th century to protect women from the stress and related negative consequences resulting from working late hours, especially in industrial workplaces such as mines and textile and clothing manufacturing sweatshops. Among the accords is ILO Underground Work (Women) Convention 45 (1935), which prohibits the employment of women in mines or other underground work. In light of more recent evolving concepts on women's rights, ILO instruments, such as those regarding night work (ILO Conventions 4 and 41), are now viewed as archaic, patronizing, and discriminatory by restricting women's opportunities in the labor market. The ILO website lists the status of these conventions as "Outdated Instrument" and, with the exception of Argentina, Suriname, and Venezuela, countries in ILAC have either never ratified it, or later renounced (withdrawn from) the convention. The most recent ILO convention on the subject of women and night work, ILO Night Work (Women) Convention (Revised) Number 89 (1948) contains a provision allowing women "holding responsible positions of a managerial or technical character who are not ordinarily engaged in manual work" to perform night work. This language appears to have been crafted as a partial concession to adapting the principle of regulating night work for women to post-World War II economic realities. For the record, the controversial women's work provisions include conventions 4 (Night Work (Women) 1919; 41 (Night Work (Women) Revised), 1934; and 89 (Night Work (Women) Revised), 1948.

The Guideline does not specifically recommend that projects rely upon the standards established in the women's work conventions noted above. Their application should be reconsidered in light of the current dialogue and socioeconomic realities regarding equal opportunity and treatment between men and women in the workplace. The women and work conventions that may have been ratified previously by a national government could now be in conflict with the country's current national legislation as well as its international obligations under the Declaration of Fundamental Principles and Rights at Work to observe the core labor rights on equality of treatment and opportunity. ILO core conventions 100 and 111 focus on equal pay and the problem of sex discrimination in the workplace, and are designed to secure for women workers the same job opportunities and treatment enjoyed by their male counterparts. They do not countenance preferential treatment or ineligibility for certain professions due to gender.

Also, the limitations set out in Convention 89 contravene the normative standards established in the recent United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). That instrument, which entered into force in 1989, states that men and women shall have the same rights, which include the "right to the same employment opportunities, including the application of the same criteria for selection matters in employment."

The Guideline recommends that projects always comply with national laws. Where gaps or discrepancies exist in the national legal framework of women in the workplace, it is recommended that project management review the ILO core conventions, the CEDAW convention, and other United Nations instruments, as well as consult with local legal experts in the country. The most important consideration for project management should be whether female workers are afforded equal opportunity and treatment in relation to other workers. To evaluate whether these matters are being observed at the project, please see the Guideline Section 2.3 "Equality of Opportunity and Treatment (Nondiscrimination)". Thus, the guidelines will not discuss further the content or requirements of the women's working condition conventions.

The Guideline does recommend, however, the following as a best practice:

- Management should undertake project-wide seminars and consultation sessions, some with female workers only and others with the entire project staff, to learn worker and management views on the status of work opportunities and treatment of women at the project. The aim of these meetings will be to investigate revising project policies on women's activities at the project in light of evolving international standards on equal rights at work and in conformance with national law.

### 6.3 Indigenous and Tribal Peoples

Over the past century, the International Labour Organization has been the principal international institution to focus on normative standards addressing the economic and socio-cultural circumstances of ethnic and linguistic communities now commonly referred to as "Indigenous Peoples."<sup>4</sup> Initially, the ILO conventions concerning indigenous and tribal peoples were directed at mitigating unacceptable labor practices and regulations forced upon native populations living under European colonial domination in Africa and Asia, as well as upon indigenous peoples in independent countries of Latin America.<sup>5</sup>

In 1957, the ILO drafted the Indigenous and Tribal Populations Convention 107 to protect indigenous and tribal peoples from labor abuses, securing their basic rights as accorded under national laws to majority populations and generally improving their working and living circumstances.<sup>6</sup> More recently, the rights of indigenous peoples have been taken up by other international organizations, including the World Bank, the United Nations, and the Organization of American States.<sup>7</sup> The only legally binding international legal instruments to date that protect indigenous peoples' rights, however, are the ILO conventions. The most recent of these accords is ILO Indigenous and Tribal Peoples Convention 169 (1989).

A key distinguishing feature among indigenous peoples is that they have retained, in varying degrees, social, cultural, economic, and political characteristics that are clearly distinct from those of the other elements of the population of the nations in which they live. Physical isolation has often assisted indigenous communities in retaining their identity, customs, and other cultural attributes. It has also led to their economic and social marginalization relative to other populations in the country. The often-distinctive dress, habits, racial features, and languages of indigenous peoples have occasioned legal and social discrimination against them by politico-economically dominant groups. Discrimination has in some cases substantially impacted on equality of opportunity and treatment of indigenous people in the labor market and in the workplace.

The most recent instruments on the subject contain provisions that expressly seek to prohibit such discrimination. The United Nations Draft Declaration on the Rights of Indigenous Peoples (1994) states that "indigenous peoples have the right to enjoy fully all rights established under international labor law and national labor legislation" and that "indigenous individuals have the right not to be subjected to any discriminatory conditions of labor,

<sup>4</sup> For a contemporary definition of "Indigenous Peoples," see Article 1 of ILO Indigenous and Tribal Peoples Convention Number 169 (1989).

<sup>5</sup> For example, see ILO Recruiting of Indigenous Workers Convention Number 50 (1936); ILO Penal Sanctions (Indigenous Workers) Convention Number 65 (1939), and ILO Plantations Convention Number 10 (1958).

<sup>6</sup> Article 2.2(a) of ILO Convention 107 (1957) seeks to enable Indigenous populations to "benefit on an equal footing from the rights and opportunities which national laws or regulations grant to the other elements of the population."

<sup>7</sup> See World Bank, "Indigenous Peoples" (Operational Directive OD 4.20, 1991), [www.worldbank.org](http://www.worldbank.org); United Nations Draft Declaration on the Rights of Indigenous Peoples (1994); United Nations Draft Declaration on the Rights of Indigenous Peoples (1994), E/CN.4/Sub.2/1994/2/Add.1 (1994); and Organization of American States Draft Inter-American Declaration on the Rights of Indigenous Peoples (1995), OEA/Ser/L/V/II.90 Doc.9 Rev. 1, 21 September 1995.

employment, or salary.”<sup>8</sup> ILO Indigenous and Tribal Peoples Convention 169 (1989) calls upon governments, “in cooperation with the peoples concerned, [to] adopt special measures to ensure the effective protection with regard to recruitment and conditions of employment of workers belonging to these peoples, to the extent that they are not effectively protected by laws applicable to workers in general.” Further, “governments shall do everything possible to prevent any discrimination between workers belonging to the peoples concerned and other workers.”<sup>9</sup>

Many indigenous communities today are located in remote, economically marginalized, and underdeveloped areas of countries. Partially due to this physical isolation, indigenous communities often have limited access to educational and training facilities. Poor access to schools undermines their opportunities to learn to read, write, and speak the national language with the competency required to obtain employment in a position above that of a manual laborer. The related high illiteracy rate among indigenous workers renders them vulnerable to labor rights abuses, since they may be unable to read or understand contractual conditions or information about their rights and responsibilities as workers. Ingrained racial stereotypes and biases against indigenous persons, based on historical and cultural attitudes, also impact negatively upon the bargaining power and socioeconomic status of members of many indigenous groups.

In order to have a well-functioning project labor force, it makes good business sense to find ways to overcome the socio-cultural and economic barriers that impede indigenous peoples from realizing equal opportunity and treatment in the workplace.

The following information covers only those provisions of the ILO indigenous and tribal people’s conventions dealing with employment-specific issues. The guidelines do not address sections of these conventions that handle land tenure, resettlement, cross-border contacts, and other cultural and related issues. These matters go beyond the scope of usual employer-employee relations in infrastructure sector projects. For further guidance on ensuring indigenous rights in the context of the core labor rights, see Guideline Section 2.3 “Equality of Opportunity and Treatment (Nondiscrimination).”

### **Requirements<sup>10</sup>**

#### ***Convention 107: Indigenous and Tribal Populations, 1957***

1. The project shall exercise respect for the customs or customary laws of project workers from indigenous and tribal populations (Article 7).
2. Project workers from indigenous and tribal populations have the right to retain their own customs and institutions, when these are not incompatible with the national legal system (Article 7).
3. The project is prohibited from imposing compulsory personal services upon members of indigenous and tribal populations (Article 9).
4. Workers belonging to indigenous and tribal populations have the same rights as other workers. The project must establish policies to prevent discrimination against workers belonging to indigenous and tribal populations by other workers or management, in particular regarding
  - a. Admission to employment, including skilled employment
  - b. Equal remuneration for work of equal value

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<sup>8</sup> Article 18, United Nations Draft Declaration on the Rights of Indigenous Peoples (1994), E/CN.4/Sub.2/1994/2/Add.1 (1994).

<sup>9</sup> ILO Convention 169 (1989), Article 18. Additionally, ILO Convention 107 (1957), the precursor to ILO Convention 169, also contains in its Article 15 a nondiscriminatory employment provision.

<sup>10</sup> For purposes of these Requirements, use of the terms: “indigenous peoples,” “indigenous populations,” “indigenous groups,” “indigenous communities,” or “indigenous workers,” will refer to persons from “indigenous and tribal peoples,” or from “indigenous and tribal populations,” as defined in ILO Convention Number 169.

- c. Medical and social assistance, the prevention of employment injuries, workmen's compensation, industrial hygiene, and housing
- d. The right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations (Article 15).

***Convention 169: Indigenous and Tribal Peoples, 1989***

1. The project shall ensure that indigenous and tribal peoples<sup>11</sup> enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination (Article 3).
2. In applying national laws and regulations to indigenous workers, the project shall respect the customs or customary laws of these workers (Article 8).
3. The project shall establish policies and procedures to ensure that indigenous workers have the right to retain their own customs and institutions, when these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights (Article 8).
4. Project management is prohibited from imposing upon members of indigenous populations any form of compulsory personal services, such as gardening, housekeeping, or other duties for management's personal benefit (Article 11).
5. Indigenous workers have the same rights as other project workers with regard to employment opportunity and treatment, in particular with regard to the following (Article 20):
  - a. Admission to employment, including skilled employment, as well as measures for promotion and advancement
  - b. Equal remuneration for work of equal value
  - c. Medical and social assistance, occupational safety and health, all social security benefits and any other occupationally related benefits, and housing
  - d. The right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.
6. To secure effective exercise of the above rights for indigenous workers, the project shall establish mechanisms to ensure that indigenous workers, including seasonal, casual, and migrant workers, as well as those employed by labor contractors (Article 20):
  - a. Enjoy the protection afforded by national law and practice to other such workers in the same sectors, and that they are fully informed of their rights under labor legislation and of the means of redress available to them
  - b. Are not subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances
  - c. Are not subjected to coercive recruitment systems, including bonded labor and other forms of debt servitude
  - d. Enjoy equal employment opportunities and treatment for men and women, and protection from sexual harassment

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<sup>11</sup> As defined in Article 1 of ILO Convention Number 169.



**Table 6.2. Requirements for Indigenous Peoples**

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <b>Convention 107: Indigenous and Tribal Populations, 1957</b>  |  |  |
| The project shall respect the customs and customary laws of its workers from indigenous and tribal populations, when these are not incompatible with the national legal system. | <p>Does the project's work-force contain members from indigenous or tribal populations?</p> <p>Which indigenous communities or groups are represented on the workforce and what is the percentage of indigenous workers in relation to the total project workforce?</p> <p>Are indigenous workers subject to special treatment versus the rest of the workforce? If yes, what special measures are taken?</p> <p>Are workers from indigenous populations provided translations in their native language(s) of all employment relevant information (contracts, work conditions, information on the handling of hazardous products, etc.)?</p> <p>Do workers from indigenous populations live close to their home or are they living temporarily on the project site?</p> <p>If workers belonging to indigenous populations are living away from their homes, on which occasions and how often are they able to go back to their communities?</p> <p>In what ways are workers of indigenous populations organized according to their own customs and institutions?</p> | <p>Project policies and procedures ensuring recognition of and respect for the rights and customs of indigenous people at the work site.</p> <p>Number and quality of measures taken to conform project policies and procedures to the customs and customary laws of indigenous peoples.</p> <p>Project policy documentation, translated into the mother tongue of indigenous peoples, containing project work conditions, procedures, and manuals, including contracts.</p> <p>Amount of leave granted to workers from indigenous populations for the purpose of joining traditional celebrations, political gatherings, etc.</p> <p>Degree of project management's familiarity with local and regional indigenous communities and understanding of the customs, practices, and social structure of the indigenous groups represented on the workforce.</p> |
| The project is prohibited from condoning or imposing compulsory personal service in any form upon indigenous workers. <sup>12</sup>   | <p>What areas of responsibility do workers from indigenous populations have on the project?</p> <p>Under which types of contractual conditions are workers from indigenous populations performing their work?</p> <p>Are any indigenous workers brought to the project by labor brokers who administer their contracts and pay? If so, how does the project ensure that labor brokers are not abusing indigenous workers through debt bondage or other coercive practices?</p> <p>Do indigenous workers perform personal chores for project management?</p>  | <p>Reported incidences of forced and compulsory labor.</p> <p>Project policy communicated to all contractors, and labor providers prohibiting debt bondage or other coercive labor procurement or administrative practices.</p> <p>Interviews with indigenous workers or human rights, church, or labor groups indicate that workers are required to perform personal chores for project management.</p>   |
| Indigenous workers shall have the same rights as other workers. The project must  | To what extent are people from indigenous populations encouraged to seek employment with the project?  | Percentage of workers from indigenous populations employed at the project compared to the percentage of indige-  |

<sup>12</sup> Voluntary work performed without remuneration is permitted as outlined in ILO Convention 29, Article 2, paragraph 2. This requirement thus shall not prevent companies from granting indigenous workers materials or food as exchange for their work in constructing schools, health clinics, etc for their own communities.

| Convention Requirements  | Questions  | Indicators  |
|--|--|---|
| <p>establish policies to prevent discrimination against indigenous workers in particular regarding (Article 15), the following:</p> <p>(1) Admission to employment, including skilled employment</p> <p>(2) Equal remuneration for work of equal value</p> <p>(3) Medical and social assistance, prevention of employment injuries, workmen's compensation, industrial hygiene, and housing</p> <p>(4) The right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.</p> | <p>What is the percentage of workers from indigenous populations within the total work force?</p> <p>What is the percentage of indigenous people in the national workforce?</p> <p>What percentage indigenous workers has skilled employment jobs?</p> <p>What percentage of management personnel is from indigenous populations?</p> <p>Are indigenous peoples employed under the same conditions as other workers (hours of work, salaries, etc.)?</p> <p>Do indigenous workers have access to the same medical and social assistance and benefits as other workers?</p> <p>Are indigenous workers provided with the right to access traditional medical treatment, if requested?</p> <p>In what ways are indigenous workers protected from contagious diseases?</p> <p>What kind of housing is available for workers from indigenous populations?</p> <p>How does the housing for indigenous workers compare with that provided to the rest of the workforce?</p> <p>With which trade union organizations are indigenous workers associated?</p> <p>What percentage of indigenous workers are members of trade unions or other freely elected worker representative organizations?</p> <p>What is the status of relations between indigenous workers and trade unions at the project?</p> | <p>nous persons as part of the total or regional national population.</p> <p>Percentage of workers from indigenous populations employed in different project responsibility areas compared to job responsibility breakdown for the total project workforce.</p> <p>Average salary level of indigenous workers compared to that of the average project worker.</p> <p>Health status among indigenous workers at the project site.</p> <p>Quality of social security and social assistance received by indigenous workers compared to that received by the average non indigenous worker.</p> <p>Absence of indigenous workers in membership of trade unions or other worker representative organizations.</p> <p>Percentage of indigenous workers who are members of trade unions and percentage of trade union officers who are from indigenous populations.</p> <p>National law provisions concerning the types of organizations permitted to negotiate collective bargaining agreements.</p> <p>Aspects of the collective bargaining agreement that address the specific needs of indigenous workers.</p> |
| <b>Convention 169: Indigenous and Tribal Peoples, 1989</b>   |  |   |
| <p>The project shall ensure that indigenous and tribal peoples<sup>13</sup> enjoy the full measure of human rights and fundamental freedoms without hindrance or discrimination.</p> <p>In applying national laws and regulations to indigenous workers, the project shall respect the customs or customary laws of these workers.</p>   | <p>Does the project's labor or management force contain members from indigenous populations?</p> <p>How does the project ensure recognition of, and respect for, the rights and customs of indigenous people in its workforce?</p> <p>How does the project ensure that indigenous workers are not discriminated against by other workers, management, and contractors?</p> <p>Which indigenous communities/groups are represented on the workforce and what is the percentage of indigenous workers in relation to the total Project workforce?</p>  | <p>Policies and implementing procedures ensuring recognition of and respect for the rights and customs of indigenous workers at the project.</p> <p>Number and quality of measures taken to conform Project policies and procedures to the customs and customary laws of indigenous workers.</p> <p>Project policy documentation, translated into the mother tongue of indigenous workers, containing project procedures, and manuals including contracts.</p>  |

<sup>13</sup> As defined in Article 1 of ILO Convention 169.

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
|   | <p>Are workers from indigenous populations subject to special treatment compared with the rest of the workforce? If yes, what special measures are taken?</p> <p>Are workers from indigenous populations provided translations in their native language(s) of all employment relevant information (contracts, work conditions, information on the handling of hazardous products, etc.)?</p> <p>Does the project know if its subcontractors use indigenous peoples for project tasks?</p> <p>Are workers belonging to indigenous peoples recognized by national law as “indigenous” and protected under national labor law?</p> <p>Are indigenous workers provided with translations into their mother tongue of relevant employment information (contracts, work conditions, etc.)?</p> | <p>Amount of leave granted to workers from indigenous populations for the purpose of joining traditional celebrations, political gatherings, etc.</p> <p>Degree of management’s familiarity with local and regional indigenous communities and understanding of the customs, practices, and social structure of the indigenous groups represented in the workforce.</p> <p>Complaints to human rights or other groups or to local authorities concerning project noncompliance with indigenous rights.</p> <p>Documented management principles respecting the human rights of indigenous peoples at the project.</p> |
| The project shall establish policies and procedures to ensure that indigenous workers have the right to retain their own customs and institutions, when these are not incompatible with fundamental rights defined by the national legal system and with internationally recognized human rights. | <p>Do indigenous workers live near their homes or temporarily at the project site?</p> <p>If workers belonging to indigenous peoples are living away from their homes, on which occasions and how often are they able to go back to their communities?</p> <p>In what ways are project workers belonging to indigenous peoples organized according to their own customs and institutions?</p> <p>When indigenous customs and institutions are incompatible with the structure and policy of the employer, what measures are taken to resolve such conflicts?</p>   | <p>Amount of leave granted to indigenous peoples to join traditional celebrations, political gatherings, etc.</p> <p>Project management’s degree of understanding of the cultures and social structures of the indigenous communities of project workers.</p> <p>Measures taken by the project to resolve indigenous workers’ customs or institutions that are not compatible with project policies or procedures.</p>   |
| The project shall not impose or condone any form of compulsory personal services on indigenous workers. <sup>14</sup>   | <p>What areas of responsibility do indigenous workers have on the project site?</p> <p>Under which types of contractual conditions are indigenous workers performing their work?</p> <p>Are any indigenous workers brought to the project by labor brokers who administer their contracts and pay? If so, how does the project ensure that labor brokers are not abusing indigenous workers through debt bondage or other coercive practices?</p> <p>Do any indigenous workers perform personal chores for members of project management?</p>  | <p>Reported incidences of forced and compulsory labor.</p> <p>Project policy communicated to all contractors, and labor brokers prohibiting debt bondage or other coercive labor procurement or administrative practices.</p> <p>Interviews with indigenous workers and/or human rights or labor groups reveal that indigenous workers are required to perform personal services for project management.</p>   |

<sup>14</sup> Voluntary work performed without remuneration is permitted as outlined in ILO Convention 29, Article 2, paragraph 2. This requirement shall thus not prevent companies from granting indigenous workers materials or food as exchange for their work in constructing schools, health clinics, etc for their own communities.

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <p>Workers from indigenous populations shall have the same rights as other workers related to</p> <p>employment opportunity and treatment, especially in the following:</p> <p>(1) Admission to employment, including skilled employment, as well as measures for promotion and advancement</p> <p>(2) Equal remuneration for work of equal value</p> <p>(3) Medical and social assistance, occupational safety and health, social security benefits, and any other occupationally related benefits, and housing</p> <p>(4) The right of association and freedom for all lawful trade union activities, and the right to conclude collective agreements with employers or employers' organizations.</p> | <p>To what extent are indigenous people encouraged to seek employment with the project?</p> <p>What is the percentage of indigenous workers of the total Project workforce?</p> <p>What percentage of indigenous workers has skilled and managerial jobs at the project?</p> <p>What is the percentage of indigenous people in the national workforce?</p> <p>Are indigenous people employed on the same terms as other workers (hours of work, salary, etc)?</p> <p>Do indigenous workers have access to the same assistance and benefits as other workers?</p> <p>How are indigenous workers protected from communicable diseases?</p> <p>What kind of housing is available for indigenous workers compared to that for the rest of the project workforce?</p> <p>With which trade unions, if any, are workers from indigenous populations associated?</p> <p>In addition to trade unions, do any other organizations have the right under national law to participate in negotiating the collective bargaining agreement?</p> <p>What percentage of indigenous workers are members of trade unions or other freely elected worker representative organizations?</p> | <p>Percentage of indigenous workers at the project matches or exceeds the percentage in the regional and national population.</p> <p>Percentage of indigenous workers in different areas of project responsibility compared with the breakdown for the total project workforce.</p> <p>Project percentage of indigenous workers and managers equals or exceeds the percentage in the national workforce.</p> <p>Average salary level of indigenous workers compared with the average project worker's salary.</p> <p>Health status of indigenous workers compared to rest of the project workforce.</p> <p>Quality of social security and assistance received by indigenous workers compared to that received by non indigenous workers.</p> <p>Absence of indigenous workers in membership of trade union or other worker representative organizations.</p> <p>Percentage of indigenous workers who are officers of trade unions.</p> <p>National law provisions on the types of organizations permitted to negotiate collective bargaining agreements.</p> <p>Issues in collective bargaining agreement addressing specific needs of indigenous workers.</p> |
| <p>To secure the effective exercise of the above rights, the project shall establish mechanisms to ensure the following:</p> <p>(1) Project indigenous workers shall enjoy all the protections afforded by national law and practice to other workers in the same sectors, and indigenous workers shall be fully informed of their rights under labor legislation and of the means of redress open to</p>   | <p>Are project indigenous workers subject to the same laws and regulations as other workers?</p> <p>How are indigenous workers at the project site informed of their legal rights?</p> <p>Does national law require that terms and conditions of employment and the labor laws must be explained to indigenous workers in languages they understand?</p> <p>In what ways are indigenous peoples working at the project site prevented from exposure to toxic substances?</p> <p>Are any indigenous workers subjected to working conditions hazardous to their health?</p> <p>Given special health concerns about the impact</p>  | <p>Project policies concerning salary, work conditions, etc. are translated into mother tongue(s) of employed indigenous peoples.</p> <p>Project documents outlining international and national labor laws are translated into mother tongue(s) of indigenous workers.</p> <p>Level of awareness among indigenous workers of their rights and of the national and international laws for securing their rights.</p> <p>Reports in project records and at local medical facilities on health conditions among indigenous workers.</p>   |

| Convention Requirements   | Questions  | Indicators  |
|---|--|---|
| <p>them.</p> <p>(2) Indigenous workers are not to be subjected to working conditions hazardous to their health, in particular through exposure to pesticides or other toxic substances.</p> <p>(3) Indigenous workers are not to be subjected to coercive recruitment systems, including bonded labor and other forms of debt servitude.</p> <p>(4) Indigenous workers shall enjoy equal employment opportunities and treatment for men and women, and protection from sexual harassment.</p> | <p>of diseases introduced to indigenous populations, in what ways are indigenous workers protected from viruses and other contagions introduced by other workers at the workplace?</p> <p>Are all indigenous laborers working of their own free will? In what ways can this be verified?</p> <p>Do the project or its contractors or any of their affiliates provide or offer loans to indigenous workers?</p> <p>What are the conditions for loan repayments?</p> <p>Are bills for housing, food, and other services deducted from a worker's salary? If so, what is the maximum percentage that can be deducted?</p> <p>What percentage of indigenous women is employed compared to the percentage of indigenous men?</p> <p>What measures are taken to meet gender specific needs?</p> <p>What measures are taken to prevent sexual harassment?</p> | <p>Reports in project records or at local medical facilities on number and seriousness of project accidents due to toxic substance exposure.</p> <p>Reported incidences of forced or compulsory labor at the project and/or in the region.</p> <p>Project policy communicated to all contractors, subcontractors, and labor brokers prohibiting debt bondage or other coercive labor procurement or administrative practices.</p> <p>Reports on file at project or with local government authorities, NGOs, or trade unions concerning sexual harassment at the project.</p> <p>Existence of project policy prohibiting sexual harassment of its workers, including indigenous peoples, and procedures to inform all workers and management of the policy and implement its provisions.</p> |

## Documents Needed

1. Project policy on employment of indigenous people and a description of its implementation
2. Collective bargaining agreement
3. Project work contracts for all employed indigenous people
4. Copies of project employment documents (including those relating to salary, work conditions, etc.) and documents outlining international and national labor laws, translated into the mother tongue of all groups of indigenous workers
5. Project policy prohibiting sexual harassment of project workers, including indigenous peoples, and procedures to ensure effective communication and implementation of the policy among all workers and management
6. Project policy communicated to all contractors, subcontractors, and project labor brokers prohibiting debt bondage or other coercive labor procurement or administrative practices
7. Documentation of all accidents caused by toxic substances
8. Reported incidences of forced or compulsory labor at the project and/or in the region.
9. Medical records and/or interviews with project clinic or local doctors regarding health conditions among indigenous workers
10. Comparison of average salary level of indigenous workers that of project workers in general
11. Records on amount of leave granted to workers from indigenous populations to join traditional celebrations and other cultural or political gatherings
12. Project policies and implementation procedures ensuring recognition of the rights and customs of indigenous people working at the project.

## Project Site Visit

1. Review the human rights situation in the region, that is, through communication with ILO representatives, NGOs working with indigenous peoples, and human rights representatives, local journalists, or academics.
2. Visit the workplace during working hours and observe the conditions under which different groups of workers are employed.
3. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to obtain their views about (i) the existence and social and legal status of indigenous communities in the region and at the project; (ii) regional or local violations of the rights of indigenous peoples, including debt bondage; and (iii) the project's respect for and observance of national and international laws regarding the rights of indigenous peoples
  - b. Random and representative sample of union-organized and nonorganized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on the professional status of indigenous people at the project, and the project's respect for and observance of national and international laws regarding the rights of indigenous peoples
  - c. Trade union and/or other worker organization representatives (offsite whenever possible), to obtain their input on (i) the project's respect for and observance of national and international laws regarding the rights of indigenous peoples, (ii) representation in union leadership or membership by indigenous workers, and (iii) the relationship between union/workers representatives and local indigenous leaders and indigenous communities.
  - d. Selected members of project management (offsite whenever possible), to obtain their input on the professional status of indigenous people at the project, and the project's respect for and observance of national and international laws regarding the rights of indigenous peoples
  - e. Workers from the indigenous populations represented at the Project, to obtain their input on (i) the project's respect for and observance of national and international laws regarding the rights of indigenous peoples; (ii) efforts by the project to respect indigenous peoples' customs, cultures, and special work-related needs; (iii) representation in union leadership or membership by indigenous workers; and (iv) the relationship between union/worker representatives and local indigenous leaders and indigenous communities
  - f. Chiefs or elected leaders who represent the groups of indigenous people working at the project to obtain their input on (i) the project's respect for and observance of national and international laws regarding the rights of indigenous peoples; (ii) Project efforts to respect indigenous peoples' customs, cultures, and special work-related needs; (iii) representation in union leadership or membership by indigenous workers; and (iv) the relationship between union/worker representatives and local indigenous leaders and indigenous communities.

## Best Practices

1. Apply ILO Recommendation 104, Articles 9, 10, 11, and 12 in countries where indigenous populations are not recognized or covered by the national legislation.
2. Coordinate project recruitment procedures with the local representatives of the relevant indigenous organizations.
3. Contact the local ILO expert on indigenous people for advice on best practices in the region as well as for monitoring and cooperation with relevant development projects for indigenous people in the region.
4. Establish jointly managed grievance mechanisms in collaboration with the authorities of the local indigenous community.

5. Coordinate with the national ministry of indigenous affairs to jointly meet the needs of the indigenous peoples in the project locale.
6. To encourage indigenous participation at all project levels, establish a policy for vocational training and promotion of indigenous peoples. The policy should be drafted in consultation with local indigenous community leaders and with indigenous project workers.
7. Conduct sensitization seminars and workshops for project management and workers on the rights and special circumstances of indigenous peoples. Project management can utilize the services of the regional ILO office to obtain information and technical assistance on raising awareness and improving understanding about the special circumstances faced by indigenous peoples in the job market and the workplace.
8. Establish project policies that are sensitive to indigenous workers' needs for extended leave to participate in tribal or cultural/familial commitments.
9. If the project is located in a region containing indigenous communities defined as "in voluntary isolation" (*incontactables*) by national legislation, the project will not employ indigenous workers from such communities unless permitted by national law and with the informed input from the governmental indigenous rights authorities. The Sustainable Development Department of the IDB maintains a list on the status of specific indigenous communities in Latin America.
10. Doctors/nurses who are assigned to assist indigenous workers shall be able to speak some or all of their native languages and have knowledge of their customs.
11. Make available for indigenous and other project workers, at the individual worker's discretion, traditional healing practices and modern Western medical treatment.
12. Conduct seminars for all management and workers on the rights, customs, and other attributes of indigenous peoples represented on the project workforce.
13. Include workers from the indigenous populations in project training initiatives to more effectively integrate the entire workforce. Ensuring the presence of indigenous people in worker and management positions throughout the project can have wider development benefits. Qualified staff members from indigenous communities in responsible positions can modify prejudices within the general workforce and among the locale's non indigenous population about indigenous peoples' aptitudes and abilities. Having indigenous people in responsible staff positions can also provide role models for other indigenous workers and for young persons from local or regional indigenous communities.
14. Provide multicultural and bilingual education for the children of indigenous peoples in their mother tongue and the national/regional language.
15. Establish a local outreach program to support handicrafts and rural and community-based industries to assist indigenous artists and their communities in maintaining cultural practices and in generating income for economic self-reliance and sustainable development.
16. Ensure that a fair share of project operating revenues is distributed to local indigenous and non indigenous communities.
17. Observe the following principles for facilitating indigenous workers' integration into the project workforce: (a) as spelled out in ILO Convention 169, "self-identification" as "Indigenous or Tribal" is a basic criterion for establishing whether workers are indigenous persons, regardless of mode of dress, physical appearance, or other external characteristics;<sup>15</sup> and (b) policies to mitigate difficulties facing indigenous workers should be undertaken in consultation with and with participation by indigenous workers' representatives and/or indigenous rights organizations, and should never involve involuntary means for cultural or social assimilation.

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<sup>15</sup> ILO Convention Number 169 (1989), Article 1, paragraph 2.

## 6.4 Migrant Workers

The movement of large numbers of people through and between countries to find employment has become a major international phenomenon over the past 50 years. Cross-border migration fueled by civil strife, economic instability, environmental degradation, rapid population growth, and poverty involves millions of people throughout Latin America and the Caribbean. The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families defines a “migrant worker” as “a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national.”<sup>16</sup>

Migrant workers represent an especially vulnerable group within the labor force and thus require special measures to protect their rights. Migrant workers’ negotiating power is often limited by their legal status in the country to which they have immigrated. Migrant workers can have a temporary or a long-term work permit. In both circumstances, however, the right to remain in the country usually depends on the employer’s prerogative to retain and renew the migrant’s legal work status. Meanwhile, millions of other migrants are not living and working legally in the country to which they have moved. These individuals, who are often referred to as “undocumented immigrants” or “irregular migrants,” generally have minimal or no protection of their rights under the host country’s laws and live a shadow existence in constant fear of deportation. Because of their precarious legal status, undocumented migrants are particularly susceptible to coercive, abusive, and sometimes life-threatening treatment by employers and the agents who traffic these migrants to prospective employers.

The two most encompassing ILO instruments that focus on “migration” are Migration for Employment Convention 97 (1949) and Migrant Workers (Supplementary Provisions) Convention 143 (1975).

ILO Convention 97 sets up norms and requirements to ensure that lawful immigrants are entitled to the same labor conditions as any national worker regarding salary level, social services, accommodation, and the right to collective bargaining and freedom of association. Convention 97 contains provisions designed to assist migrants in securing employment and also to ensure that they receive equality of treatment. States are obliged to apply to immigrants lawfully within their territory, without discrimination and regardless of nationality, race, religion, or sex, treatment no less favorable than the treatment applied to their own citizens.

ILO Convention 143 goes further than Convention 97<sup>17</sup> by also focusing on the issue of illegal migrants. It requires states to determine the existence of illegal migrants and to monitor whether the state’s own territory is being used as a conduit for the transport and trafficking of migrants under circumstances that violate international treaties and national laws. Convention 143 and accompanying Recommendation Number 151 incorporate prescriptions for stamping out abuses in the procurement of migrant workers and for facilitating equality of opportunity and treatment. The underlying principle of Convention 143 is that the basic human rights of *all* migrant workers must be respected,<sup>18</sup> regardless of citizenship or legal status. The prescriptions for prosecution of migrant traffickers and protection of human rights are reaffirmed and consolidated in the Preamble to the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. That document establishes as basic standards, “preventing and eliminating clandestine movements and trafficking in migrant workers, and at the same time assuring the protection of the fundamental human rights of these migrants.”<sup>19</sup>

<sup>16</sup> See Article 2, paragraph 1, United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the General Assembly at its 45th session on 18 December 1990 (A/RES/45/158).

<sup>17</sup> The only relevant section of Convention 97 is Article 8, stating that: “Any person who promotes clandestine or illegal immigration shall be subjected to appropriate penalties.”

<sup>18</sup> ILO Convention 143, Article 1.

<sup>19</sup> Preamble, United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (A/RES/45/158).



## Requirements

### ***Convention 97: Migration for Employment Convention, Revised 1949***

1. The project shall treat legal migrant workers without discrimination on the basis of nationality, race, religion, or gender, and no less favorably than workers who are citizens of the country in which the project is located, in regard to the following:
  - a. Remuneration, including family allowances when these form part of remuneration; hours of work; overtime arrangements; holidays with pay; restrictions on home work; minimum age for employment; apprenticeship and training; women's work; and the work of young persons (Article 6)
  - b. Membership in trade unions and enjoyment of the benefits of collective bargaining (Article 6)
  - c. Accommodation/housing (Article 6)
  - d. Social security, including legal provisions relating to employment injury, maternity, sickness, invalidity, old age, death, unemployment, and family responsibilities, and any other contingency that, according to national laws or regulations, is covered by a social security scheme (Article 6)
2. The project shall ensure that every migrant worker before he/she begins work has a written copy of his/her employment contract, which contains the occupational category, conditions of work, and remuneration offered by the project (adapted from Annex I, Article 5)
3. The project shall provide the migrant worker before he/she begins work with written information concerning the general conditions of life and work applicable to him/her at the project (adapted from Annex I, Article 5).

### ***Convention 143: Migrant Workers (Supplementary Provisions), 1975***

1. The project shall respect the basic human rights of all migrant workers (adapted from Article 1).
2. The project shall pursue and guarantee a labor policy of equal opportunity and treatment in employment and occupation, social security, trade union and cultural rights, and individual and collective freedoms for persons who are migrant workers and/or members of their families and who are lawfully within the country (adapted from Article 10 and Article 12 (g)).

**Table 6.3. Requirements for Migrant Workers**

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| <b>Convention 97: Migration for Employment Convention, Revised 1949</b>  |  |  |
| The project shall treat legal migrant workers without discrimination on the basis of nationality, race, religion, or gender, and no less favorably than nationals in respect of the following matters: | Does the project have a policy and procedures for equal employment opportunity and treatment of migrant workers?<br><br>Does the treatment of migrant workers differ in any way from treatment accorded to national workers? If yes, in what ways? | Project policy on nondiscrimination in employment of migrant workers with procedures for effectively informing all project management, workers, and contractors.<br><br>Number of complaints made by migrant workers to project management, NGOs, or government authorities about discrimination at the project. |
| (1) Remuneration, including family allowances; work hours; overtime arrangements; paid holidays; restrictions on home work; minimum employment   | Do migrant workers receive the same remuneration as national workers?<br><br>Do migrant workers work the same number of hours as national workers?<br><br>Do migrant workers work more or less hours   | Ratio of salary for migrant workers to the salary for national workers.<br><br>Ratio of hours worked by migrant workers on a daily, weekly, and monthly basis compared with those worked   |

| Convention Requirements  | Questions  | Indicators   |
|--|--|--|
| age; apprenticeship and training; women's work; and the work of young persons  | <p>of overtime than national workers?</p> <p>Are migrant workers remunerated in the same way for overtime work as national workers?</p> <p>What is the age of the youngest migrant worker at the project?</p> <p>Do young migrant workers receive the same benefits and treatment as young national workers?</p> <p>Do female migrant workers receive the same benefits and treatment as female national workers?</p> <p>Are migrant workers offered the same opportunities for training and apprenticeship as national workers?</p> | <p>nationally on a daily, weekly, and monthly basis.</p> <p>Average overtime rate for migrant workers compared to national workers.</p> <p>Average salary of female migrant workers compared with national average salary of female workers.</p>   |
| (2) Membership in trade unions and enjoyment of the benefits of collective bargaining  | <p>What percentage of migrant workers are members of a trade union or a workers' organization?</p> <p>Are migrant workers permitted to organize under national law?</p>  | <p>Ratio of project migrant workers affiliated to a workers' organization or a union compared with national workers so affiliated.</p> <p>The collective bargaining agreement contains provisions to protect migrant worker labor rights, in particular, equality of opportunity and treatment.</p> <p>Project policies and practices concerning ability of migrant workers to organize conform to national law.</p> |
| (3) Accommodation  | <p>What accommodation/housing types are migrant workers offered compared to the types offered to national workers?</p> <p>What are the comparative costs of such accommodation for migrant workers and national workers?</p>   | <p>Quality and cost of accommodation offered to migrant workers compared to quality and cost of housing for national workers.</p>  |
| (4) Social security (e.g., legal provisions for employment injury, maternity, sickness, invalidity, old age, death, unemployment, family responsibilities, etc.) | <p>What forms of social security and insurance cover migrant workers?</p> <p>Do these arrangements differ from the social security and insurance granted to national workers?</p>  | <p>Ratio of migrant workers covered by social security systems and insurance compared to national workers covered.</p>   |
| The project provides every migrant worker it hires with a detailed written copy of their contract before they begin work.  | <p>Under what kinds of contracts are migrant workers employed at the project? Are these contracts in writing?</p> <p>Is a copy of the contract given to each migrant worker before he/she begins work?</p> <p>Do terms of employment in migrant worker contracts differ from those in national worker contracts? If so, why?</p>   | <p>Project policy with implementing procedures effectively conveyed to all management, and contractors, requiring a written contract for every migrant worker that contains remuneration and employment conditions.</p> <p>Existence of written contracts for all project migrant workers, and workers are given copies of their contracts.</p>  |

| Convention Requirements  | Questions   | Indicators  |
|--|---|---|
| The project provides every hired migrant worker written information about general conditions of life and work applicable to them before they begin work. | What types of orientation about the project, work, and living conditions are provided to migrants?<br>Is this information provided before or after they begin work?   | Project orientation materials provided as a standard policy to migrants.<br>Written evidence that this information is provided before migrants begin work.  |
| <b>Convention 143: Migrant Workers (Supplementary Provisions), 1975</b>  |   |   |
| The project shall respect the basic human rights of all migrant workers.   | What is the legal status of all project migrant workers?<br>How does the project verify the legal status of each migrant?<br>Does the project have a human rights policy applicable to all workers?<br>In what ways does the project ensure that the human rights of migrant workers are respected? | Project policy and procedures for human rights of migrant workers are conveyed to all workers, management, and contractors.<br>Evidence from Labor Ministry or other responsible authority, NGOs, or trade unions on allegations of human rights abuses of migrant workers.<br>Project records verifying legal status of every migrant worker at the project. |
| The project pursues a nondiscrimination policy for equality of treatment and opportunity for all lawful migrant workers.                                 | Does the project afford national workers with different job opportunities than those given to migrant workers?<br>When applicants possess equivalent qualifications, does the project hire a national rather than a migrant applicant?  | Project policy and procedures effectively inform all management, and contractors regarding nondiscrimination in opportunity and treatment for migrant workers.<br>Evidence from Labor Ministry, another responsible public authority, NGOs, or trade union on allegations of discrimination in opportunity and treatment of migrant workers.                  |

## Documents Needed

1. List of all migrant workers employed, including information on salary, period of employment, and age, including a copy of work-permit and any other required government authorization documents for each migrant worker to confirm legal status in the country
2. Copy of the standard contract(s) issued for migrant workers
3. Copy of general project policy on the employment of migrant workers
4. Copy of project policy on nondiscrimination in employment of migrant workers, with procedures for effectively informing all project management, workers, and contractors
5. List of complaints by migrant workers to project management, NGOs, or government authorities regarding discrimination at the project
6. Salary information for migrant workers and for national workers performing same functions at the project
7. Data on daily, weekly, and monthly hours worked by migrant workers and data on daily, weekly, and monthly hours worked by national workers
8. Data on the average overtime rate for migrant workers compared to the average overtime rate for national workers
9. Data on accommodation costs for housing in the area and/or housing offered by the project to migrant workers (where applicable)

10. Reports or statements from the Labor Ministry or another responsible governmental authority on existence or absence of allegations of abuse or discrimination in opportunity and treatment concerning migrant workers at the project.
11. Copy of project policy and implementing procedures effectively conveyed to all workers, management, and contractors concerning respect for the human rights of migrant workers
12. Copy of project orientation materials provided as a standard policy to migrants
13. Written evidence that this information is provided before migrants begin work
14. Copy of project policy with implementing procedures effectively conveyed to all management and contractors requiring written contracts that contain remuneration and employment conditions for all migrant workers
15. Copy of collective bargaining agreement.

### Site Visit

1. Conduct interviews with migrant workers about their working conditions, living standards, legal status, and possibilities to access benefits and social security.
2. Meet with Labor Ministry or other responsible governmental authority to confirm proper documentation and legal status of project migrant workers.
3. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, and business leaders/chamber of commerce, to obtain their views about (i) the citizenship and legal status of migrant workers in the region and at the project, (ii) project practices regarding the use of migrant workers, (iii) the presence of any legal restrictions or project practices affecting the ability of migrant workers to form or join unions, and (iv) the project's respect for and observance of national and international laws on the rights of migrant workers
  - b. Random and representative sample of union-organized and non organized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on (i) the citizenship and legal status of migrant workers at the project, (ii) project practices regarding the use of migrant workers, and (iii) the project's respect for and observance of national and international laws on the rights of migrant workers;
  - c. Trade union and/or other worker organization representatives (offsite whenever possible), to obtain their input on (i) the citizenship and legal status of migrant workers at the Project, (ii) project practices in hiring and employing migrant workers, (iii) the project's respect for and observance of national and international laws on the rights of migrant workers, (iii) the presence of any legal restrictions or project practices affecting the ability of migrant workers to form or join unions, and (iv) the relationship between the trade union workers' freely elected representative organization and migrant workers
  - d. Selected members of project management, including contractors (offsite whenever possible), to obtain their input on (i) the citizenship and legal status of migrant workers at the project; (ii) project practices in hiring, training, and employing migrant workers; and (iii) the project's respect for and observance of national and international laws on the rights of migrant workers
  - e. Project migrant workers (offsite whenever possible), to obtain their input on (i) the citizenship and legal status of migrant workers at the project; (ii) project practices in hiring, training, promoting, and generally employing migrant workers; (iii) the project's respect for and observance of national and international laws on the rights of migrant workers; (iv) the presence of any legal restrictions or project practices affecting the ability of migrant workers to form or join unions; and (v) special difficulties experienced by migrant workers in relation to national workers, union representatives, or management at the project.

### **Best Practices**

1. Provide work descriptions and contracts in the native language(s) of every project migrant worker.
2. Provide adequate bilingual education for the children of migrant workers.
3. Provide language courses in the national language for migrant workers and their spouses.
4. Whenever possible provide migrant workers with long-term or permanent work permits.
5. Conduct seminars for project contractors on the rights of migrant workers, including the human rights protections under national and international law of “illegal” or “irregular” migrant workers.
6. When illegal migrants are discovered working, the project should consult with the local/regional ILO office about humane treatment and respect for their human rights.
7. When illegal migrants have been procured for the project by a labor broker or through a project contractor or subcontractor, the project should notify the local governmental labor authorities about these activities by intermediaries.

## **7. SPECIAL PROVISIONS BY SECTOR OF ECONOMIC ACTIVITY: ROAD TRANSPORT AND DOCK WORK**

The construction of new infrastructure projects, as well as the operation, maintenance, upgrading, and expansion of existing facilities requires transporting raw materials, personnel, equipment, and other supplies to and from the work site. It also entails substantial risks and dangers for individuals performing the transport services, persons being transported, operators of other vehicles, and communities along the travel route. Explosions and injuries resulting from vehicle collisions, and damage to persons, property, and the environment are just some of the possible hazards. Drivers engaged in commercial transport activities often face exhausting and stressful work conditions on hot and dusty, slippery, muddy, flooded, or unpaved roads and trails in remote areas. Likewise, stevedores and other laborers engaged in dock work, whether at river and ocean ports or at railway or airport facilities, also must contend with an especially difficult work environment. The lifting, lowering, and moving of heavy loads to and from ships, train cars, airplanes, and other modes of transport, as well as the noise and other related inconveniences at these facilities, impose substantial physical burdens on these workers.

The ILO has crafted standards to address the special circumstances of transport and dock workers. These instruments supplement the core labor rights and other ILO standards that also apply generally to all workers. The principle ILO accord on road transport activities is Convention 153 on Hours of Work and Rest Periods (Road Transport), 1979. It focuses specifically on regulating the work hours of drivers of vehicles for commercial purposes, domestically or internationally. Convention 153 expressly seeks to limit excessive driving hours and to ensure adequate rest periods in order to promote the safety of commercial drivers, their passengers, and other road users.

For dock work activities, the ILO has promulgated ILO Dock Work Convention 137 (1973), ILO Dock Work Recommendation 145 (1973), and ILO Occupational Safety and Health (Dock Work) Recommendation 160 (1979). These accords seek to regulate the social repercussions of new methods of cargo handling among dock workers. They call for raising among employers the profile of dock workers as a bona fide professional category, and for employers to give job selection priority to persons who are registered as “dock workers.” Instead of treating dock work as a part-time occupation, with limited benefits and job security, the ILO 137 expressly requires that employers provide permanent or regular employment status for dock workers.

### **7.1 Road Transport**

#### **Requirements**

1. The project shall not allow transport drivers to drive continuously for more than four hours per day without a break (Article 5).
2. Where the national law allows, the project can permit drivers to work a maximum of five continuous hours per day without a rest break.
3. The length of rest breaks and how they may be split shall be determined by the competent national authority.
4. The project shall not allow a project driver’s total driving time, including overtime, to exceed 9 hours per day and 48 hours per week (Article 6).
5. The project shall ensure that the maximum daily total driving time is reduced when transport activities occur in especially difficult or dangerous conditions (Article 6).

6. The project must give its drivers a daily rest period of at least 10 consecutive hours during any 24-hour period from the beginning of the working day (Article 8).
7. The daily rest may be calculated as an average over periods, but it must be at least eight hours per day and shall not be reduced to eight hours more than twice a week (Article 8).
8. The project shall inform every driver that during the daily rest period, the driver is not required to remain in or near the vehicle if he/she has taken the necessary precautions to ensure the safety of the vehicle and its load (Article 8).
9. The project shall keep a record, in a form approved by the competent authority or body in each country, indicating the work and rest hours of every driver employed by the project (Article 10).
10. The project shall place the record at the disposal of the supervisory authorities in a manner determined by the competent authority or body in each country (Article 10).

**Table 7.1. Requirements for Hours of Work and Rest in Road Transport**

| Convention Requirements   | Questions  | Indicators  |
|---|--|---|
| <b>Convention 153: Hours of Work and Rest Periods (Road Transport), 1979</b>  |  |   |
| <p>The project shall not allow its transport drivers to drive continuously for more than four hours per day without a break.</p> <p>If the national government allows, the project can permit drivers to work a maximum of five continuous hours without a rest break.</p> <p>The length of the break and the ways it may be split shall apply to the determination made by the competent national authority.</p> | <p>How many hours per day do project drivers work, on average?</p> <p>How often are project drivers given breaks?</p> <p>Who determines the length of the rest breaks for project drivers?</p> <p>How long are breaks, and how are they distributed throughout the workday?</p> <p>Due to deadlines, are drivers occasionally required to drive for longer hours without breaks? If so, for how many hours per day? How often does this occur?</p> | <p>Project policy on maximum consecutive work and rest-break hours and implementing procedures effectively communicated to all drivers and transport workers, management, and contractors.</p> <p>Medical records indicating accidents or injuries to or by project drivers or transport workers due to lack of rest/lack of sleep.</p> <p>National laws or regulations on maximum hours and maximum break times daily for transport workers.</p> |
| <p>The project shall not allow a project driver's total driving time, including overtime, to exceed 9 hours per day and 48 hours per week.</p>  | <p>What is the length of the longest workday and workweek for each driver?</p> <p>Do project drivers work overtime? If so, for how many hours per week? With overtime, how many hours per week do project drivers ordinarily work?</p>   | <p>Payroll overtime records for all project transport workers.</p> <p>Timesheets for all project transport workers.</p>   |
| <p>The project shall ensure that the maximum daily total driving time is reduced when transport activities occur in particularly difficult conditions.</p>  | <p>Who determines what conditions are particularly difficult or dangerous for drivers?</p> <p>Which project activities have been identified as involving particularly difficult or dangerous driving conditions?</p> <p>Under such circumstances, is the total maximum driving time reduced?</p>   | <p>Project policy and procedures effectively conveyed to all transport workers, management, and contractors, outlining dangerous and difficult driving conditions for purposes of limiting driving time for transport workers.</p> <p>Project policy on reduced work hours for particularly difficult transport conditions, and implementing procedures effectively communicated to all</p>   |

| Convention Requirements  | Questions   | Indicators   |
|--|---|--|
|  |   | drivers and transport workers, management, and contractors.  |
| <p>The project must give its drivers a daily rest period of at least 10 consecutive hours during any 24-hour period from the beginning of the working day.</p> <p>The daily rest may be calculated as an average over periods, but it must be at least eight hours per day and shall not be reduced to eight hours more than twice a week.</p> | <p>During any 24-hour period, how many consecutive rest hours is each driver given?</p> <p>What is the minimum time of the drivers' daily rest (between shifts)?</p> <p>Is the daily rest period ever less than eight hours? How many times a week is it less than eight hours?</p> | <p>Project policy on maximum consecutive work and on rest-break hours, and implementing procedures effectively communicated to all drivers and transport workers, management, and contractors.</p> <p>Medical records indicating accidents or injuries to or by project drivers or transport workers due to lack of rest or sleep.</p>   |
| <p>The project shall inform its drivers that during the daily rest period a driver is not required to remain in or near the vehicle if he/she has taken the necessary precautions to ensure the safety of the vehicle and its load.</p>  | <p>Is the driver required to remain in or near the vehicle during daily rests?</p>  | <p>Project policy on taking precautions to ensure vehicle safety during rest breaks, and implementing procedures effectively communicated to all drivers or transport workers, management, and contractors.</p>  |
| <p>The project shall keep a record, in a form approved by the competent authority of the country, indicating the hours of work and of rest of every driver employed by the project.</p>  | <p>How does project management record the work and rest hours for every driver?</p>   | <p>Project policy on recording hours of work and of rest breaks and rest periods, with implementing procedures effectively communicated to all drivers or transport workers, management, and contractors.</p> <p>Existence of project records on hours of work, rest breaks, and rest periods for every project driver.</p> <p>Above project records conform with requirements established under national law.</p> |
| <p>The project shall place the record at the disposal of the supervisory authorities in a manner determined by the competent authority or body in each country.</p>  | <p>How does the project make this record available to the responsible governmental supervisory authority?</p>   | <p>Documentation showing that the project has communicated the record to the responsible governmental supervisory authority.</p> <p>Comments or concerns raised by the governmental authority on the quality or accuracy of the record.</p>  |

### Documents Needed

1. Project records on hours of work, rest breaks, and rest periods for every project driver
2. Documentation from the local police department/public safety authority listing the number of accidents involving project drivers/transport workers, and the cause and circumstances of each accident
3. Documentation substantiating that project records on hours, rest breaks, and rest periods for every project driver conform with requirements established under national law
4. Documentation confirming that the project has communicated the records on transport workers'/drivers' work hours, rest periods, and rest breaks to the responsible governmental supervisory authority



5. Comments/concerns raised by the governmental authority on the quality or accuracy of the record
6. Copies of project policies on (a) recording hours of work, rest breaks, and rest periods; (b) taking precautions to ensure vehicle safety during rest breaks; (c) reducing work hours for particularly difficult transport conditions; (c) setting maximum consecutive work and minimum rest-break hours; and (d) communicating the implementing procedures effectively to all drivers/transport workers, management, and contractors
7. Medical records from project health facility and from local hospital indicating existence or absence of accidents/injuries to or by project drivers and transport workers due to lack of rest or sleep.
8. Payroll overtime records for all project transport workers.

### Site Visit

Conduct confidential interviews with the following:

1. Local human rights NGOs, church leaders, academics, health and safety experts, physicians/nurses at nearby hospitals/clinics, and business leaders/chamber of commerce, to obtain their views about (a) project policies and safety practices for drivers/transport workers and (b) the project's respect for and observance of national and international laws on the rights and occupational safety of drivers/transport workers
2. Random and representative sample of union-organized and non organized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on (a) project safety practices for the use of drivers/transport workers, and (b) the project's respect for and observance of national and international laws on the rights and occupational safety of drivers/transport workers
3. Trade union and/or other worker organization representatives (offsite whenever possible), to obtain their input on (a) project policies and safety practices for the use of drivers/transport workers, and (b) the project's respect for and observance of national and international laws on the rights and occupational safety of drivers/transport workers;
4. Selected members of project management, including contractors (offsite whenever possible), to obtain their input on (a) project policies and safety practices for the use of drivers/transport workers, and (b) the project's respect for and observance of national and international laws on the rights and occupational safety of drivers/transport workers
5. Project drivers/transport workers (offsite whenever possible), to obtain their perspectives on (a) project safety practices for the use of drivers/transport workers, and (b) the project's respect for and observance of national and international laws on the rights and occupational safety of drivers/transport workers.

### Best Practices

1. Conduct seminars for all project drivers and transport workers and management (including contractors) on the labor rights of transport workers and drivers, and on the special occupational health and safety issues involving extended hours, stress, sleep deprivation, and other factors that could imperil overall project success and the safety of project drivers, other project staff, and the general population around the project.
2. Ensure that every project driver annually undertakes and passes an eye examination, a general health evaluation, and a driver safety examination.
3. Conduct periodic, unannounced sobriety tests for all transport workers.

## 7.2 Dock Work

### Requirements

#### *Convention 137: Dock Work, 1973*

1. The project shall provide permanent or regular employment for dockworkers when practicable (Article 2).
2. Dockworkers shall be assured minimum periods of work or a minimum wage (Article 2).
3. The project shall register all occupational categories for project dockworker jobs and for project dockworkers (Article 3).
4. Registered dockworkers shall have priority for dock work jobs (Article 3).

**Table 7.2. Requirements for Dock Work**

| Convention Requirements   | Questions  | Indicators   |
|---|--|--|
| <b>Convention 137: Dock Work, 1973</b>  |  |  |
| The project shall provide permanent or regular employment for dock-workers, when practicable. | Does the project employ dock-workers on a regular basis?<br><br>Are dockworkers employed as part of the permanent staff or are they hired on a daily, weekly, or monthly basis as contracted or casual workers?  | Project policy on hiring dockworkers as permanent workers rather than as temporary or short-term contract workers.<br><br>The project policy and implementation procedures are effectively communicated to all project management and contractors.   |
| Dockworkers shall be assured minimum periods of work or a minimum income.                     | What is the minimum period of employment for project dockworkers?<br><br>Is there a minimum income that project dockworkers receive irrespective of whether or not their services are required every day?  | Project policy on minimum employment period and minimum income, with implementation procedures for effectively communicating the policy to all project dockworkers, dockworker management, and contractors.<br><br>Project dockworkers, management, and contractors indicate that they understand the policy on minimum income and minimum work periods. |
| Registered dockworkers receive priority for dock work jobs.                                   | Are dockworkers employed on a casual basis registered either by the Project or by the competent authority?<br><br>How are dockworkers recruited for casual employment?<br><br>Does the project have a preference scheme for registered versus unregistered workers in dockworker jobs? | Project policy that gives priority to registered dockworkers, with implementation procedures for effectively communicating the policy to all project dockworkers, dockworker management, and contractors.<br><br>Project dockworkers, management, and contractors indicate they understand the policy on minimum income and minimum work periods.        |

### Documents Needed

1. Register of all dockworkers utilized/employed by the project, and documentation revealing the amount of annual work each individual has been granted.
2. Copies of project policies that target the following:
  - a. Extend priority to registered dockworkers, with implementation procedures for effectively communicating the policy to all project dockworkers, dockworker management, and contractors

- b. Establish a minimum employment period and minimum income, with implementation procedures for effectively communicating the policy to all project dockworkers, dockworker management, and contractors
- c. Promote hiring of dockworkers as permanent, regular workers rather than as temporary or short-term contract workers, with implementation procedures for effectively communicating the policy to all project dockworkers, dockworker management, and contractors.

### **Project Site Visit**

1. Conduct interviews with the competent national authority on the legal/regulatory system for registration and recruitment of dockworkers.
2. Conduct confidential interviews with the following:
  - a. Local human rights NGOs, church leaders, academics, health and safety experts, and business leaders/chamber of commerce, to obtain their views about (i) project policies and safety practices for the use of dock workers and (ii) the project's respect for and observance of national and international laws on the rights and occupational safety of dock workers
  - b. Random and representative sample of union-organized and nonorganized project workers with different areas of responsibility (offsite whenever possible), to obtain their input on (i) project hiring and treatment of dock workers and (ii) the project's respect for and observance of national and international laws on the rights and occupational safety of dock workers
  - c. Trade union and/ or other worker organization representatives (offsite whenever possible) to obtain their input on (i) project policies and safety practices for the use of dock workers, (ii) project attitudes and practices toward the unionization and organizational activities of dock workers, and (iii) the project's respect for and observance of national and international laws on the rights and occupational safety of dockworkers
  - d. Selected members of project management, including contractors (offsite whenever possible), to obtain their input on (i) project policies and safety practices for the use of dock workers and whether management understands the project policies on assured minimum income and minimum work periods for dockworkers, (ii) Project attitudes and practices toward unionization and organizational activities by dock workers, and (iii) the Project's respect for and observance of national and international laws on the rights and occupational safety of dockworkers
  - e. Project dock workers (offsite whenever possible) to obtain their perspectives on (i) project hiring and employment practices regarding dock workers, (ii) the project's respect for and observance of national and international laws on the occupational safety rights of dockworkers; and (iii) whether project dockworkers understand the project policy on assured minimum income and minimum work periods.

### **Best Practices**

1. Avoid or minimize the use of casual labor contracts, and ensure that all dock workers are given written contracts of employment that contain the terms and conditions of work.
2. If workers are employed on short-term contracts, the project should grant them the same/equivalent benefits and coverage by social security systems received by full-time and permanent project workers.
3. Project follows the provisions on ensuring occupational health and safety of dockworkers set out in ILO Occupational Safety and Health (Dock Work) Convention Number 152 (1979) and in the Section II Technical Measures of ILO Occupational Safety and Health (Dock Work) Recommendation 160 (1979).

## 8. TEMPORARY WORKFORCE ACCOMMODATIONS

The construction and expansion of large infrastructure projects, often requires workers to be far from homes, hotels, or suitable accommodations. In such situations the project provides temporary housing. In Latin America and the Caribbean, construction workers on infrastructure projects typically encounter environmental and workplace stresses and discomforts including the affects of sun, wind, heat, noise, insects and other pests, dust, rain, and humidity. In response to specific conditions, Projects must ensure that workers are housed adequately in safe, hygienic accommodations. In regions affected by social disorder or violent conflict, projects must implement security arrangements that ensure the physical safety of the project and its workforce, as well as respect for the human rights of the local population.<sup>1</sup> Some projects are located in areas prone to earthquakes or volcanic activity, or they are subject to hurricanes, flooding, and other natural disasters. Depending on the geographic and political risks in the host country, these factors must be considered when selecting building materials, as well as in designing and operating temporary work camps. Most construction projects hire a large percentage of their labor force under contracts or subcontracts. Projects need to ensure that all contractors understand and abide by the requirements for safe, secure accommodation of labor in temporary camps.

### Requirements

The crafting of regulations and norms to protect workers in temporary camps is a new and developing area connected with labor rights and environmental protection. The ILO has set out very general parameters for the quality and scope of temporary housing for workers. Unlike other thematic categories in the guidelines, this section on temporary workforce accommodations goes beyond the general provisions offered by the relevant ILO accords. It borrows and adapts a large body of detailed standards produced by industry and national authorities in Argentina, Brazil, Chile, Colombia, Mexico, Uruguay, and the United States.<sup>2</sup> In general, the requirements of these countries are quite similar. Where discrepancies in standards exist, these guidelines have chosen those that are most detailed and specific. The requirements and the corresponding compliance questionnaire table in this section reflect a distillation of ILO, national, and industry standards for use in private sector infrastructure projects.

#### ***Recommendation 115: Workers' Housing, 1961***

##### *Article II. "Housing Standards"*<sup>3</sup>

1. Where housing accommodation for single workers or workers separated from their families is collective, the project shall establish housing standards the provide, as a minimum, the following:
  - a. Separate bed for each worker
  - b. Separate accommodation of the sexes
  - c. Adequate supply of safe water
  - d. Adequate drainage and sanitary conveniences
  - e. Adequate ventilation and, where appropriate, heating
  - f. Common dining rooms, canteens, rest and recreation rooms, and health facilities, where not otherwise available in the community.

<sup>1</sup> For more information on the development of standards to address this issue, see "Multinational Enterprises," in *Situations of Violent Conflict and Widespread Human Rights Abuses*, OECD Working Papers on International Investment, May 2002; and "Voluntary Principles on Security and Human Rights," developed by the United States and the United Kingdom. The latter can be obtained from the U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Washington, D.C.; or downloaded at <http://www.state.gov/>.

<sup>2</sup> Code of Federal Regulations, Section 1910.142, "Temporary Labor Camps," at <http://www.osha.gov/>.

<sup>3</sup> See ILO Recommendation 115, Article II.

2. Workers' housing standards should be revised periodically to take account of social, economic, and technical development and increases of real income per head
3. In constructing and operating temporary accommodations, the aim should be to construct workers' housing and related community facilities with the most suitable materials available, bearing in mind local conditions such as the likelihood of earthquakes.

Infrastructure projects should conform to the above ILO principles in the construction and operation of temporary work camps. The following additional specific requirements are drawn from various guidelines and other normative standards:

1. Pursuant to these requirements, projects will be responsible for establishing, constructing, maintaining, protecting, and removing any temporary accommodations needed to house or otherwise service the health and hygienic requirements of the workforce and its dependents.
2. Temporary accommodations will be located offsite, but within reasonable proximity to the project.
3. The project will also be required to ascertain the availability of space for temporary accommodations, including all direct and indirect associated costs as well as any permitting and related legal obligations that may exist in the country.

Projects that construct and operate temporary work camps have special responsibilities toward their workforces, the local population, and the surrounding environment. To achieve high standards of health and safety at project work camps, project management must execute these responsibilities in accordance with prudent operational practices and applicable host country requirements, international law, and any contractual obligations.

To meet these objectives, projects having temporary workforce accommodations should establish a centralized management authority that will include a health and safety commission. This commission will monitor conditions at the work camps. It shall consist of representatives from project management as well as the groups of workers living in the temporary accommodations. It is recommended that project management employ at least one public health expert to serve on the commission. Daily visual inspections shall be conducted inside and outside all structures to ensure that health and safety conditions conform to project requirements. The commission will be responsible for the daily verification of the health, safety, and environmental conditions of the work camps.

The commission will also receive claims and complaints from workers, management, and third parties about the adequacy of conditions or violations of legal standards, policies, or practices at the work camps. It will also have the authority to decide on appropriate corrective action to address situations affecting the health, safety, or environmental quality of the work camp.

All projects utilizing temporary work camps will be expected to conform to the following general health and safety parameters:

1. All buildings, toilets, showers, and places for food preparation and consumption will be maintained in structurally sound, safe, hygienic, and comfortable conditions.
2. A functioning communications system will be maintained in the work camp through telephone lines or mobile phones. All phones should be marked clearly with the relevant emergency numbers. A project health and safety officer shall be on duty 24 hours a day to handle emergencies.
3. The commission shall conduct daily visual inspections of all facilities, including buildings, rooms within buildings, and other installations and areas provided to serve as temporary accommodations.
4. The commission shall keep a logbook of every daily inspection.

5. Where signs of deterioration, wear and tear, or other damage are detected or reported to the commission, project management shall undertake timely corrective actions or repairs as soon as possible. All corrective actions shall be recorded and provided to the PRI ESU on a regular basis.

In order to measure the performance of a project against the above guidelines, a checklist has been created that can be used for self-monitoring. This checklist is included in Annex A.III.



# Managing Labor Issues In Infrastructure Projects

## Annexes





## ANNEX A

### INFORMATION SOURCES ON SUBJECTS RELATED TO ILO CONVENTIONS

The following organizational Web sites, especially those of the International Labor Organization (ILO), can be used for information collection and review.

*International Labor Organization.* This guideline is based on requirements and pronouncements set forth in the conventions, declarations, recommendations, and other instruments of the International Labour Organization. To effectively understand international labor rights standards, it is recommended that staff and environmental parties regularly visit the ILO Web site at <http://www.ilo.org/>. The ILO site contains full text of international labor rights conventions, protocols, and recommendations, as well as a wide range of guidelines, studies, and reports on labor rights relating to national labor standards, including ILO commentary on member countries' observance of ILO conventions, which can be found on the following Web pages:

National Labor Law at the ILO-LEX: <http://www.ilo.org/ilolex/english/index.htm>

Cases at the Committee on Freedom of Association: [http://www.ioe-emp.org/ioe\\_emp/ilo/cfa.htm](http://www.ioe-emp.org/ioe_emp/ilo/cfa.htm)

*U.S. Department of State* ([http://www.state.gov/www/global/human\\_rights/hrp\\_reports\\_mainhp.html](http://www.state.gov/www/global/human_rights/hrp_reports_mainhp.html)). *The Annual Country Reports on Human Rights Practices* is regarded as the most comprehensive and systematic global report on workers' rights. The reports are produced by the U.S. Department of State Bureau of Democracy, Human Rights, and Labor in response to the U.S. Congress's requirement for "a full and complete report regarding the status of internationally recognized human rights. . . in countries that receive assistance . . . and in all other foreign countries which are members of the United Nations and which are not otherwise the subject of a human rights report under this Act."<sup>1</sup> Officially entitled *Country Reports on Human Rights Practices*—but more generally referred to as "State Department Reports"—the reports adopt a standard format on the status of labor rights and human rights topics for individual countries. Section 6 covers the right of association, the right to organize and bargain collectively, prohibition of forced or compulsory labor, status of child labor practices and minimum age for employment, and acceptable conditions of work. Section 5 addresses discrimination based on race, sex, religion, disability, language, and social status, including detailed observations on equality of opportunity and treatment in the workplace for these groups. Other sections deal with respect for the integrity of the person, respect for civil liberties, respect for political rights, governmental attitude regarding international and nongovernmental investigation of alleged violations of human rights, and trafficking in persons. The standardized template for reporting assists the reader in evaluating trends and developments in and among countries. Information in the reports are provided by the labor attaches at U.S. embassies based on a set of 15 questions on internationally recognized worker rights. These State Department Reports should be utilized as a primary source for broad and accurate information on labor rights situations.

*Human Rights Watch* (<http://www.hrw.org/>). Human Rights Watch (HRW) began in 1978 as Helsinki Watch.<sup>2</sup> It is an international NGO that documents and exposes human rights violations to put public pressure on

<sup>1</sup> See sections 116(d) and 502(b) of the Foreign Assistance Act of 1961 (FAA), as amended, and section 504 of the Trade Act of 1974, as amended.

<sup>2</sup> Helsinki Watch supported the efforts of citizen groups in the former Soviet bloc countries to monitor governmental compliance with the 1975 Helsinki Accords on human rights, environmental protection, and security. In 1981, Helsinki Watch formed a branch called Americas Watch to respond to concerns by private citizens in Latin America over "disappearances," torture, killing, and other human rights abuses, especially in Guatemala, Chile, and Argentina. Asia Watch (1985) and Africa Watch (1988) were also founded as regional human rights watchdogs. In 1988, Helsinki Watch, Americas Watch, and the regional branches reorganized to form Human Rights Watch.

governmental abusers and their agents. It also undertakes dialogue with governments to encourage human rights reforms. In Latin America, HRW has supported truth commissions, prosecutions, and work by local human rights defense groups. HRW's findings are published yearly in its *World Report* on human rights practices, which is available on its Web site. Many other publications are disseminated through the local and international press. HRW has produced much important work on labor rights in Latin America and the Caribbean.

The *World Report* does not include entries on the human rights situation in every country. Instead, it focuses selectively on countries where HRW sees serious human rights problems or substantial opportunities to facilitate change. However, the HRW Web site includes a current events archive for most countries. When using HRW's annual reports for updates on specific countries, the user should take into consideration that HRW is not specifically a labor rights advocacy or labor rights reporting organization. Its focus is more generally on human rights abuses. These issues and other human rights topics are reported by region and country in a news-clip format on the HRW Web site. The depth and selection of material on labor rights is a bit inconsistent across countries. However, when used in conjunction with other human and labor rights databases, the HRW Web site and its publications provide a highly useful source of additional labor rights information.

*International Confederation of Free Trade Unions (ICFTU)* (<http://www.icftu.org/>). Set up in 1949, the ICFTU is a confederation of national trade union centers that links individual trade unions in 150 countries. ICFTU members must be bona fide, independent, democratic trade unions. Together with its affiliates, regional organizations, and NGOs, the ICFTU focuses on universal respect for trade union rights guaranteed under the ILO conventions. It defends trade unionists, including legal and political action against labor right violations.

The ICFTU organizes and directs campaigns on a wide range of labor rights-related issues, including respect for trade union rights, eradication of forced and child labor, and promotion of equal rights for working women. The ICFTU sends missions to investigate trade union rights in particular countries, cooperates closely with the ILO, and has consultative status with several other UN agencies.<sup>3</sup> ICFTU publications include the *Annual Survey of Violations of Trade Union Rights* (generally referred to as "the ICFTU Annual Survey"), which details violations of freedom of association and the right to organize and bargain collectively in 115 countries. ICFTU also produces *Trade Union World*, a monthly journal dealing with global trade union rights issues. The annual survey and articles from *Trade Union World* can be downloaded directly from the ICFTU Web site.

The ICFTU Annual Survey has become a standard reference on the status of association, organization, and collective bargaining rights. The text provides an overview of developments in labor law and practice in a large number of countries,<sup>4</sup> and it details specific violations for each year. In general, the material is presented in a thorough, consistent, professional manner. It does, however, take the perspective of trade unionists; so reporting may not always appear objective.

*Labour and Society International* (<http://www.labourstart.org/>). Labour and Society International (LSI) is a U.K.-based NGO. It works with British and international trade unions in developing countries, advocating human rights improvements in the workplace. LSI assists these unions in campaigning for respect for core labor standards and improvements in occupational health and safety; developing national trade union education programs; encouraging inclusion of the interests of women worker's in union platforms and activities; and organizing unorganized workers. LSI also publishes the Labourstart Web site, which characterizes itself as "the place where trade unionists start their day on the Net." Labourstart offers daily news bites on labor rights topics from around the world. The sources for its news reports are updates from trade union organs such as the ICFU, as well as articles from international and national newspapers. Labourstart articles are organized by country,

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<sup>3</sup> These include the UN Economic and Social Council, and the Food and Agriculture Organization.

<sup>4</sup> The ICFTU Annual Survey for 2002 contained entries for all IDB borrower countries with the exceptions of Barbados and Uruguay.

enabling users to track the particular status of labor rights in which they are interested. Labourstart provides a valuable complement to annual sources of information and for news of rapidly moving, volatile labor rights issues in particular countries.

*Amnesty International* (<http://www.amnesty.org/>). Based in London, Amnesty International is the world's best-known international human rights organization. It undertakes research and action campaigns focused to stop and prevent human rights abuses—in particular, abuses affecting physical and mental integrity, freedom of conscience and expression, and freedom from discrimination. Amnesty International activities include public demonstrations, letter-writing campaigns, human rights education, appeals to governments, and lobbying intergovernmental organizations on behalf of individuals and particular issues.

Delegations from Amnesty International conduct annual fact-finding missions on human rights abuses, meet with victims of human rights violations, observe trials, and interview local activists and officials. The *Amnesty International Report* (referred to as “the AI Report”) documents issues of concern and outlines AI's activities. The primary focus is on human rights abuses. Information on labor rights is presented when, for example, a prisoner of conscience is a trade unionist, or a labor rights advocate is the subject of a letter-writing campaign. Sometimes Amnesty International decides to focus on a labor rights issue in a particular country.

*The International Centre for Trade Union Rights* (<http://www.ictur.labournet.org/>). The International Centre for Trade Union Rights (ICTUR) is a U.K.-based labor rights advocacy NGO that is recognized and accredited by the United Nations and the International Labor Organization.

ICTUR has a worldwide network of national committees reporting to the London office on the condition of trade union rights in their respective countries. The office also collects information from other NGOs and from trade unions around the world. Its major function is to disseminate up-to-date information on the status of workers' rights—in particular, to draw attention to violations in particular countries and industry sectors. Its primary vehicle is the well-respected quarterly journal, *International Union Rights*. Features, news stories, opinion pieces, and articles are contributed by union leaders, labor lawyers, academics, and human rights workers. Additionally, the Labournet Web site provides regular updates on labor rights news stories from Latin America and elsewhere in the developing world.



## **ANNEX B**

### **INITIAL/BASIC CORE LABOR STANDARDS CHECKLIST**

The checklist below provides a quick evaluation related to the fundamental worker rights or core labor conditions. This checklist should be used as part of initial or basic review of a project or company, and then followed by a more detailed evaluation using the various tables presented in this guideline (see sections 2 to 8). This checklist is not a complete evaluation of labor aspects of a project/company. NOTE: the term “Project” in the table is used to include the Company and any contractors or subcontractors.

## Managing Labor Issues in Infrastructure Projects

| PROJECT NAME: |   | DATE:                    |                          |                          |
|---------------|---|--------------------------|--------------------------|--------------------------|
|               | Labor Aspects   | Yes                      | No                       | No Info.                 |
| 1.            | Are the workers allowed to organize freely in unions and workers' organizations?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.            | Have the workers/employees joined a union or group of their own choosing?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.            | Does the Project employ forced labor (employ workers under forced conditions)?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.            | Does the Project prevent discrimination between employees in terms of recruitment, training, progression and other conditions of work irrespective of gender, race, disability, political opinion, religion or social origin? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.            | Does the Project ensure equal remuneration for similar jobs irrespective of gender?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.            | Does the Project employ workers under the national minimum age?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.            | Does the Project employ Are procedures implemented to prevent workers below the age of 18 from engagement in forms of work hazardous to their health, safety, or morals?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.            | Do workers under the age of 18 perform night work?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.            | Are wages paid by the Project that meet or exceed industry or legal national minimums?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10.           | Do workers have a work day of 8 hours or less and a workweek of 48 hours or less?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11.           | Are all project workers covered by a sickness insurance program/system?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12.           | Are yearly paid holidays granted to all workers?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13.           | Does the Project (company) grant female workers maternity leave?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14.           | Is the Project (company) presently in full compliance with all applicable labor legal requirements, including permits, authorizations and ratified international ILO conventions?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15.           | In the past three (3) years, has there been any non-compliance by the Project (company) with any applicable labor legal requirements, including permits, authorizations and ratified international ILO conventions?           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16.           | Are there any significant or material existing or past (within last 3 years) worker accidents or health issues?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17.           | Are there any significant or material existing or past (within last 3 years) employee/labor dispute(s)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18.           | In the past three (3) years has there been any significant amount of employee reduction?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19.           | Is there a union(s) at the Project (company)?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 20.           | Does the Project involve a significant amount of contractors and/or sub-contractors?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 21.           | Does the Project employ indigenous peoples?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 22.           | Does the Project employ migrant workers?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

## **ANNEX C**

### **TEMPORARY WORKFORCE ACCOMODATIONS: MONITORING PERFORMANCE**

In order to measure the effectiveness of company (including contractors' and their subcontractors') performance related to temporary workforce accommodation conditions, predetermined standards should be used. These standards should be formulated based on the requirements outlined in this guideline, and be adapted to the specific conditions of the project and the national laws of the respective country. The project is expected to monitor itself so as to ensure quality of operation and maintenance of worker accommodations. The project shall act proactively by undertaking comprehensive investigations of any situation or incident in the work camp that could potentially cause harm or loss to the workforce.

The following checklist is based on legal requirements for temporary labor camps that are applied in Argentina, Brazil, Chile, Colombia, Mexico, Uruguay, and the United States. In general, these countries have very similar requirements. Where discrepancies exist, the more detailed and specific standards have been listed here.

The checklist can be used for both, guideline for defining acceptable temporary workforce accommodations and to assist in checking the acceptability of workforce accommodations as part of a site visit to a particular project.





**Checklist for Monitoring Workforce Accommodation**

|     | <b>Site:</b>   | <b>Date:</b> | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
|-----|--|--------------|--------------------------|--------------------------|--------------------------|
| 1.  | Is the campsite located in an area that has high seismic or volcanic activity or regularly experiences hurricanes or other major storms?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | If the campsite is located in one of the above areas, has the Project taken special measures for the construction and maintenance of camp buildings and other structures to account for these natural factors? |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Is the campsite located in an area subject to periodic flooding?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Is the campsite adequately drained?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Is the campsite graded, ditched, and otherwise constructed so as to be free from depressions where stagnant water can collect?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Is the campsite placed at least 61 meters (200 feet) from any form of stagnant water—including swamps, sinkholes, or other places of nonflowing water?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Is all stagnant water near the campsite subjected to mosquito control?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Does the Project use spraying to control mosquitoes at the campsite?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | Is the drainage system constructed in such a manner that it does not endanger any domestic or public water supply?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Is the size of the camp, its structures and facilities, adequate for the number of workers accommodated?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. | Are sleeping quarters, showers, toilets and kitchens placed at least 153 meters (500 feet) from areas where domesticated animals are kept?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. | Are the areas surrounding the camp structures maintained in a clean and sanitary condition, free from waste and garbage?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. | Are brush, weeds, and other vegetation in the areas surrounding the camp structures maintained and controlled so as minimize worker contact with insects, snakes, scorpions, and other wildlife?               |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Worker Sleeping and Living Shelters</b>   |              | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Is the shelter constructed in a manner adequately adapted to the climatic and geographic conditions?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Is the shelter provided free of charge by the employer?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | If the employer charges workers for the cost of the shelter, does any worker pay in excess of 25% of his/her salary for the shelter?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Are the sleeping quarters divided according to gender?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Does each worker have his/her own bed for sleeping?  |              |                          |                          |                          |
| 6.  | Does each room used for sleeping have at least 164 square meters (50 square feet) of space per worker?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Are ceilings of sleeping areas of shelters at least 23 meters (7 feet) in height?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Does each worker have his/her own bed or his/her own bunk berth for sleeping?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | Are beds of a minimum dimension of 0.8 meters (2.6 feet) x 1.9 meters (6.2 feet), with mattresses of at least 10 centimetres (3.9 inches) in thickness?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Is each bed or bunk spaced at least 90 centimeters (36 inches), both laterally and end to end, from other beds or bunks?   |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. | Is every bed or bunk elevated at least 30 centimeters (12 inches) from the floor?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. | If bunk beds are used, is the minimum clearance between the lower and upper bunk at least 69 centimeters (27 inches)?  |              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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|     |   |                          |                          |                          |
|-----|---|--------------------------|--------------------------|--------------------------|
| 13. | Do all upper bunk beds have a protective guardrail?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. | Does the shelter comply with the prohibition that there shall be no triple-deck bunk beds?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. | Does every room used for sleeping have beds, bed linen, pillows, and blankets and suitable storage facilities, such as wall lockers for clothing and personal articles?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. | Does each worker have a cupboard/storage area that can be locked of at least the following dimensions: 1.2 m (4 feet) x 0.3 m (1 foot) x 0.4m, (1.3 feet)?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. | Are the living quarters of shelters provided with tables and chairs?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. | Are shelter floors constructed of asphalt, concrete, or wood?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. | Are shelter floors smooth, tightly constructed, and in good repair?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. | Where wood floors are used, are shelter and other camp-building wood floors elevated at least 0.3 meters (1 foot) aboveground to prevent dampness and permit free air circulation?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. | Are all shelter living and sleeping quarters, including toilets, provided with a window area at least equal to one-tenth of the floor area?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | Are windows constructed so that at least one-half of every window can be opened for ventilation?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | Are all exterior openings of living and sleeping quarters provided with screens that effectively prevent insects from entering?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 24. | Are rooms fumigated at least once per year?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. | If shelter rooms are used both for cooking and sleeping, do these rooms consist of at least 9.3 meters square (30 feet square) per person?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. | If the camp provides common kitchens for the workers to prepare their own food, are these kitchens equipped with at least one stove per 10 persons and with adequate facilities for storing and preparing food?                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 27. | Is all heating, cooking, and water-heating equipment installed in accordance with the national codes and regulations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 28. | Does the camp have heating or cooling/air-conditioning systems that are adequate for sleeping, food preparation, and eating comfort, given the climatic conditions?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Water Supply</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Does the camp possess or have access to a clean water supply that is capable of delivering 132.5 litres (35 gallons) of potable water per person per day at a peak rate of 2.5 times the average hourly demand?                             | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Does the quality of the water used for drinking, cooking, and bathing comply with the requirements of the national health authorities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are distribution lines capable of supplying water at normal operating pressures to all fixtures for simultaneous operations?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | If water is not piped directly to the shelters, are the yard hydrants within 30 meters (100 feet) from each shelter?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | If water is not distributed through pipelines, are the water tanks for water deposit and pumps made from nontoxic materials, which are closed hermetically and constructed with materials and in a manner that makes them easy to maintain? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are water tanks and pumps periodically cleaned and disinfected?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Does the campsite comply with the prohibition of common drinking cups?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Are all sources of nonpotable water clearly marked?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

|     | <b>Toilet Facilities</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
|-----|--|--------------------------|--------------------------|--------------------------|
| 1.  | Are toilet facilities provided in a ratio of 1 to each 15 workers, and at least 2 units per 15 workers when workers of both sexes share facilities?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | If urinals are provided for male workers, are these distributed in a ratio of at least one unit or 0.6 meters (2 linear feet) for each 25 men?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Where urinal troughs are used, does every urinal trough drain freely into a pit or vault, and does the construction of these pits/vaults exclude flies and rodents from the pit?       | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Are all toilet facilities cleaned daily and disinfected at least once per week?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Are all toilet facilities installed in separate rooms that do not serve other purposes?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are all toilets located where they are accessible without the need to pass through any sleeping room?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Do all toilets have a window of at least 0.56 square meters (6.2 square feet) that can be opened for ventilation purposes?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Are all outside openings screened properly to prevent the entrance of insects?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Are separate toilets provided for each sex?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | If the toilet facilities for each sex are in the same building, do solid walls from the ceiling to the floor separate the toilets?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Are toilets clearly marked 'for women' or 'for men' in the language of the workers or with easily understandable pictures or symbols?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. | Are toilets placed within 60 meters (200 feet) from the sleeping quarters?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. | Are toilets placed at least 30 meters (100 feet) from all sleeping rooms, dining rooms, lunch areas, or kitchens?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. | Are toilets and urinals made of materials that are easy to maintain, and that are clean and hygienic?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. | Are toilet walls up to at least 1.8 meters (6 feet) from the floor made from a resistant, impermeable material that is easy to maintain and clean?                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. | If pressurized water is available, are urinals provided with an adequate water flush?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. | Are all toilets lighted from a safe source at all hours of the day and night?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. | Are all toilets provided with an adequate supply of toilet paper?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. | Do toilets for female employees provide an adequate supply of sanitary napkins?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Dressing Rooms</b>  | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are adequate dressing rooms provided where workers can change clothes, and in such facilities are workers able to hygienically and safely store their clothes and personal belongings? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are separate dressing rooms provided for each sex?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are the dressing rooms located near the showers?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Are the dressing rooms cleaned at least once per day and disinfected at least once per week?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Are the dressing rooms provided with adequate lighting, ventilation, and heating?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Is each worker provided with an adequately ventilated locker made from a material that is easy to clean and to maintain in hygienic condition?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Are workers who are exposed to chemical, toxic, or other skin-irritating substances provided with two lockers, one for their regular clothes and one for their working clothes?        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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|     | <b>Laundry, Hand-washing, and Bathing Facilities</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
|-----|--|--------------------------|--------------------------|--------------------------|
| 1.  | Are hand-washing basins provided at a minimum ratio of 1 per 6 workers?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are showers provided at a minimum ratio of 5 per 15 workers?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are laundry trays or tubs provided at a minimum ratio of 1 for every 30 workers?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Is every building that is used for hand washing, bathing, or laundry provided with at least one slop sink?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Are separate shower facilities provided for each gender?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are all floors in the bathrooms made of non-slippery materials and impermeable to moisture?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Do all shower baths, shower rooms, and laundry rooms have adequate basin and floor drains?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Are floors adequately inclined toward drains in order to prevent collection of stagnant water?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | Are shower room walls constructed at least 1.8 meters (6 feet) up from the floor, and covered with an impermeable material?                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Are adequate amounts of hot and cold water provided for the purpose of bathing and laundry?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. | If water is heated by gas, does the water heater have appropriate ventilation channels and is it placed in a ventilated area?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. | Are all service buildings provided with equipment to allow maintaining a temperature of at least 21 degrees Celsius (70 degrees Fahrenheit) during cold weather? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. | Are adequate facilities provided for drying clothes?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. | Are all service buildings cleaned daily and disinfected at least once per week?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Construction and Operation of Kitchens and Dining Halls</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Is the dining hall of an adequate size for the number of workers at the camp?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Is the dining hall equipped with enough chairs and tables to serve all workers?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Is the dining hall and kitchen constructed in such a way that there is no direct opening to living and sleeping quarters?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Is the dining hall illuminated and ventilated or heated adequately to maintain the temperature between 19 and 32 degrees Celsius?                                | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Do dining table materials permits easy cleaning and hygienic maintenance?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are hand-wash stations installed near the dining room?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Are water fountains with potable water installed in the dining room?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Have workers or management complained about the quality of drinking and cooking water?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | If so, has the Project investigated and taken steps to correct the problem?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Are “no smoking” areas in the dinning hall clearly marked and delimited from smoking areas?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. | Does the dining hall have a safety and health board, where all information and regulations are posted?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. | Does the kitchen have adequate facilities for workers to heat their food and wash their dishes and are these facilities free of charge?                          | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. | Does the kitchen comply with the national health and safety requirements for food storage, service, and preparation facilities?                                  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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| 14. | Are all workers who handle food in the kitchen free of communicable diseases, and does every worker who handles food for the kitchen undergo regular medical examinations?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. | Is the kitchen equipped with an appropriate number of fire extinguishers, fire blankets, fire detectors, and first aid boxes?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. | Is gas heating used for the kitchens? If so, are the gas cylinders or tanks located outside the building and securely maintained and properly protected?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. | Are plastic boards instead of wooden boards used to prepare and cut food?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. | Are the kitchens equipped with “No smoking” and “Compulsory hat or hair mesh” signs?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. | Are the kitchens cleaned and disinfected daily?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 20. | Does the Project take effective measures to prevent infestation and to control insects and rodents in the kitchens and dining areas?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. | Have workers or management complained about hygienic conditions in the dining areas or the kitchens?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. | If complaints have been made, has the Project investigated and taken corrective action to address the problem?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Recreation</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Does the work camp offer any forms of recreation for the workers? Please underline the types of recreation provided:<br>Television – Library – Gymnasium – Football Field or Other Sport Facility – Living Room – Swimming Pool | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Sewage Disposal Facilities</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are all sewage lines and drains connected to public sewage systems?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | If it is not possible to connect to a public sewage system, does the Project construct for the work camp, impermeable and ventilated septic tanks systems of adequate material?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Do the septic tanks have a regular disposal schedule?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Have there been any complaints by workers, management, or third parties—including local authorities or local populations—concerning problems connected with the camp sewage and drainage systems?                               | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Has the Project taken steps to address these complaints?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Ventilation System</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Do all rooms have sufficient doors and windows to be adequately ventilated, and do all doors and windows close tightly and have a screen to prevent insects from entering?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are all air exhausts placed in a manner that they do not contaminate any other section of the work camp?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Communication</b>  |                          |                          |                          |
| 1.  | Is there a sufficient number of telephone or radio communication devices installed, given the number of workers and size of the camp?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are these telephone and radio communication devices operating regularly and without transmission problems?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Have any workers or management complained about transmission problems?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | If complaints have been made, has the Project investigated and taken corrective action?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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| 5.  | Are lists of emergency telephone numbers displayed in the kitchens, dining halls, recreation areas, and next to the camp telephones or other means of communication?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Fire Prevention</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Do all sleeping, dining, food preparation, and storage rooms in the camp have fire extinguishers that are adequate for the specific fire risk, and with at least 1 fire extinguisher for every 150 square meters?              | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are fire extinguishers placed where they are visible and easily accessible?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are all workers trained to operate the fire extinguishers?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Are fire extinguishers tested at least every six months?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Are sufficient fire detectors and fire alarms placed in strategic locations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are all camps structures made of fire-resistant materials?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Does the camp have designated fire marshals, who are on duty 24 hours, for coordination of fire prevention and control?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Have there been any work camp fires?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | Did these fires result in any injuries or fatalities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | Were the local police authorities notified about the injury or fatality within 24 hours of its occurrence?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Maintenance and Organization</b>  | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Does the Project/contractor perform satisfactorily the daily cleaning and maintenance of the camp?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Have any workers or management complained about unsatisfactory hygienic or maintenance conditions at the camp?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Is the camp provided with satisfactory systems to prevent the presence of stagnant water?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Do all hallways, entrances, and rooms have clear access from any materials, equipment, etc., that hampers the free circulation of air or movement of persons, or which present a risk to the health and safety of the workers? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Are smoking and nonsmoking areas clearly designated in all areas of the camp?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Do all camp door dimensions permit the evacuation of a casualty on a stretcher?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Insect and Rodent Control</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are effective measures taken to prevent infestation by animal and insect vectors or pests?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Have any workers or management expressed concerns about problems with rodents, insects, or other pests?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | If so, is the camp addressing these problems?<br>Please specify methods for addressing the problem.  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Refuse Disposal</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are service containers provided for garbage insect- and rodent-proof, impervious, cleanable, and approved by the appropriate national health authority?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Is each camp structure provided with these garbage containers?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are the garbage containers located on a wooden, metal, or concrete stand?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Are the garbage containers emptied at least daily?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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| 5.  | Are separate containers provided for organic waste?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Are the garbage containers cleaned and disinfected at least once per week?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Reporting Communicable Diseases</b>  | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Does the camp have a system to report communicable diseases and food poisoning to the local and national health authorities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Have there been incidents of communicable disease or food poisoning at the camp?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Were these incidents reported to the responsible governmental authorities?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Were these incidents reported within 24 hours of their occurrence?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>Communicating Rules and Procedures</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are all safety rules and regulations of the building or camp posted in suitable locations and in the language(s) of the workers to ensure that workers are aware of all safety regulations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are illiterate and functionally illiterate workers informed about these regulations through other forms of communication?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Is every dining, kitchen and sleeping room provided with a notice, displayed on the inside of the outer door, regarding the health, safety, and internal emergency regulations, including fire alarm codes and location of first aid boxes?                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4.  | Does each room contain a handbook outlining the following:<br>Company policies on alcohol and drugs, company policies on illegal activities such as gambling and prostitution, company policies on complaints and disputes and general rules for occupancy? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5.  | Has Project management held discussions with all workers regarding use of alcohol and drugs, gambling, prostitution, and other illegal activities, as well as company policies on complaints, disputes, and general occupancy rules?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6.  | Where the work camp is located near indigenous peoples or other local communities, has the Project established policies for restricting contacts between the Project workforce and these local populations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 7.  | Has Project management discussed with all workers and managers restrictions on procuring wildlife products, engaging in gambling, prostitution, or the sale of firearms, alcohol, and drugs within the local communities?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 8.  | Has Camp management informed all camp workers of their association, organization, and collective bargaining rights?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 9.  | Have any workers complained about Project management's respect for association, organization, and collective bargaining rights in relation to the housing camp?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. | If complaints have been made, has Project management investigated and taken steps to address the problems?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>First Aid</b>  | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Are adequate first aid facilities, approved by the national health authorities, available in the camp?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Are such facilities under the supervision of a designated person who is trained to administer first aid and available for assistance at all times?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3.  | Are procedures for emergency situations properly set up, i.e., the possibility for helicopter evacuation to nearest hospital?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
|     | <b>HIV/AIDS</b>   | <b>Yes</b>               | <b>No Info</b>           | <b>No</b>                |
| 1.  | Has an HIV/AIDS committee been established?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2.  | Has an HIV/AIDS policy been formulated?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |



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| 3. | Have all workers and managers been informed, orally and in writing, about the Project HIV/AIDS policy for the work camp?   |                          |                          |                          |
| 4. | Does the Project ensure that all workers are informed through written materials from the national health ministry, the World Health Organization, or the International Labor Organization on the health dangers, spread, and prevention of HIV/AIDS? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | Does the Project hold regular seminars for all workers and management, given by qualified medical practitioners or public health professionals, regarding the health dangers, spread, and prevention of HIV/AIDS?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

