



Peru TPA Facts

Office of the United States Trade Representative
July 2007

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Real Results on Labor Rights

Facts About FTA Labor Protections and Peru's Labor Laws

Strongest Labor Protections Ever in an FTA

Fundamental Labor Rights Guaranteed — Enforceable obligation to adopt and maintain in law and practice the five fundamental labor rights, as stated in the *ILO Declaration on Fundamental Principles and Rights at Work* (1998 Declaration).

- Freedom of association;
- The effective recognition of the right to collective bargaining;
- The elimination of all forms of forced or compulsory labor;
- The effective abolition of child labor and a prohibition on the worst forms of child labor; and
- The elimination of discrimination in respect of employment and occupation.

Enforcement Ensured — Enforceable obligation to effectively enforce labor laws related to internationally recognized labor rights; includes fundamental labor rights from the 1998 Declaration, plus acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Dispute Settlement Parity — Labor obligations subject to the same dispute settlement procedures and remedies as commercial obligations. Available remedies are fines and trade sanctions, based on amount of trade injury.

Peru's laws provide for fundamental labor rights and more

- Ratified 71 ILO conventions — including all eight of the core conventions. Completed ratification of the eight core conventions with Convention 138 on minimum age and Convention 182 on the worst forms of child labor in 2002.
- Passed major labor law reform in 2002 (came into force in 2003) addressing restrictions on freedom of association and collective bargaining remaining from the Fujimori Administration.

Freedom of Association

- Peru's Constitution and Law of Collective Labor Relations provide for freedom of association, the right to bargain collectively, and the right to strike.
- Workers have the right to form and join unions and federations in a free and voluntary manner.
- Employers are prohibited from coercing, restricting, or weakening trade union rights and may not interfere in the creation, administration, or maintenance of union organizations.

Right to Organize and Bargain Collectively

- Peru's Law on Collective Labor Relations prohibits employers from conditioning employment on affiliation or non-affiliation with a union.
- Peru's Constitution protects the right to bargain collectively and ensures that collective bargaining agreements are binding.
- The law ensures that workers, or their representatives, in a company, craft, or sector may bargain collectively regarding wages, conditions of work, and productivity.
- Peru's Constitution protects workers against arbitrary dismissal, and the Law of Productivity and Labor Competitiveness prohibits dismissal of workers due to their union affiliation or participation in union activities.
- Acts of anti-union discrimination are punishable with fines.

Prohibition on Forced Labor

- Peru's Constitution prohibits forced labor, including slavery, servitude, and trafficking in persons.
- Peru's Penal Code establishes fines and imprisonment for violations of prohibitions on forced labor and trafficking.
- In 2007, Peru established the National Commission for the Fight against Forced Labor with members from 13 ministries and organizations to coordinate forced labor policies in Peru.

Labor protections for children and a prohibition on the worst forms of child labor

- Peru's Child and Adolescent Code specifically prohibits forced labor, economically exploitative labor, prostitution, and trafficking in children and adolescents, and establishes fines and imprisonment for violations.
- Peru's Child and Adolescent Code establishes a minimum age of employment (generally 15 years of age, subject to certain rules and exceptions,) and sets hours, wages, and conditions of work for children under 18 years of age.
- In 2004, Peru established the National Committee to Prevent and Eradicate Child Labor, comprised of representatives from various ministries, NGOs, labor unions, and employers' organizations, which is responsible for addressing child labor issues and fulfilling Peru's international commitments to fight illegal child labor.

Non-discrimination in respect of employment

- Peru's Constitution and laws protect the principle of equality of opportunity without discrimination in employment, and set fines and penalties for violations. The Law of Equality of Opportunity between Women and Men guarantees women and men the ability to exercise their rights to equality and to be free from discrimination in all spheres of life.
- Peru's anti-discrimination laws prohibit discrimination in employment or access to educational institutions on the basis of race, sex, religion, opinion, social origin, socio-economic class, civil status, age, or other related basis.

- The law also protects workers from being dismissed based on discrimination, nullifies the termination of employment contracts if the termination was on the basis of sex, race, religion, opinion, or language, and prohibits the arbitrary dismissal of women during pregnancy.

Acceptable Conditions of Work

- Peru's Constitution guarantees workers a "just and sufficient" wage and states that the payment of wages and social benefits has priority over any other obligations of the employer.
- Peru's Constitution and the Law on Days of Work, Hours, and Overtime set the maximum work day at eight hours and the maximum work week at 48 hours and require companies to pay overtime for more than eight hours of work per day and additional compensation for work at night.
- The law requires employers to maintain a safe and healthy work environment in compliance with occupational safety and health regulations and to guarantee the safety and health of workers in performing all work-related tasks while at the worksite.
- Employers are liable for all the economic costs associated with accidents or injuries suffered by workers in the performance of their duties, or as a consequence of them, including legal fees.

Peru has taken specific steps to improve labor law and enforcement

Peru has undertaken reforms to address fundamental labor rights in recent years. The International Labor Organization (ILO) has cited Peru as a "Case of Progress" and praised numerous recent labor law improvements.

- Reduced the number of workers needed to establish a union; eliminated prohibitions that kept workers from joining unions during their probationary period; and limited the power of the labor authority to cancel a union's registration.
- Removed prohibitions on the political activities of unions and restrictions that had limited workers who could hold union office to those employed for at least one year.
- Repealed compulsory arbitration requirements that had limited the right to strike in essential services and repealed the requirement that public servants annually request deduction of union dues.
- Enacted a law for domestic workers in 2003 to regulate working hours and establish certain rights for this predominantly female sector of the workforce.
- Published regulations in July 2004 to strengthen labor inspections and broaden labor inspectors' powers by allowing easier access to firms, improving inspectors' ability to impose sanctions, and increasing the level of fines.
- Modernized the electronic system for tracking wage and hour data to ensure that workers are paid all wages due.
- Enacted legislation in 2004 to protect children from exploitation, including trafficking in persons and sexual exploitation.

- Launched National Action Plan for the Prevention and Eradication of Child Labor in 2005 and created special Office of Labor Protection for Minors.
- Passed a labor inspection law in 2006 to improve enforcement of laws prohibiting anti-union discrimination and strengthen offices responsible for inspection and mediation.
- Defined a violation of fundamental labor rights, including anti-union discrimination, as a *severe* violation for enforcement purposes.
- Recognized the right of workers affected by anti-union discrimination to file an *amparo* (constitutional challenge), a more expeditious means to seek redress than through the labor courts; under the law, workers may seek reinstatement for improper dismissal.
- Issued Supreme Decree in 2006, which clarified that the law prohibits an employer from unilaterally changing provisions in collective bargaining agreements and that a union can set the voting requirements in its bylaws for calling a strike, provided that the decision is taken by majority vote in which at least 2/3 of the union members vote.
- Issued Supreme Decree in 2006, which significantly reduced arbitration costs for unions.
- Issued Supreme Decree in 2006, which requires the Labor Ministry to appoint an independent entity to make decisions when there is disagreement whether workers are considered essential in case of a strike, and provides for an appeal of that entity's decision to the courts.
- Issued Supreme Decree in 2007 to protect rights of contracted workers and those in cooperatives by more precisely defining distinctions between the main and complementary activities of an enterprise.
- Implemented Five-Year (2006-2011) Strategic Plan for Ministry of Labor and Employment Promotion to promote decent employment and labor rights for all Peruvians.