

Chapter by Chapter Summary of Venezuela's New Labour Law

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Venezuelanalysis.com brings readers this detailed, chapter by chapter summary of the new Organic Law of Work and Workers (LOTTT), a law which has been under discussion in both the national assembly and by workers and movements since 2003. The law contains 554 articles.

TITLE 1 – NORMS AND CONSTITUTIONAL PRINCIPLES

Chapter 1 - General Regulations, Articles 1-17

This chapter, as is customary, outlines the object and range of the law.

The object of the law is to “*protect work as a social deed*” and to protect workers’ rights, recognising workers as creators of socially produced wealth and as protagonists in education and work processes.

It also aims to regulate the legal situations and relations stemming from the process of production of goods and services, protecting work as a “*liberating process*”.

The law applies to both Venezuelans and “*foreigners*” working in the country and to workers contracted to work outside the country, and while no rights or regulations in the law may be disqualified by worker collective agreements, such agreements can go beyond the law if the workers desire. Armed bodies, such as police and the National Bolivarian Armed Forces are exempt from the law. All other public or state workers fall under this law.

Only the national executive and legislative powers have authority to implement and regulate the law, state and municipal governments cannot create laws or ordinances based on the law.

Importantly, the law states in article 11 that labour related justice is “*free of charge*” in places of law and work administration, hence fee rates can’t be established, nor payment demanded for services. Public notaries cannot charge fees.

The official language of Venezuela is Castilian (Latin American Spanish), and indigenous languages are the official language of indigenous peoples, hence publications, training manuals, and so on should be in Spanish or in the indigenous language, according to the situation.

International agreements and treaties that Venezuela has signed will be applied obligatorily, as long as they are “*more favourable*” than national work legislation.

Another important point is article 17, which states that, “*Every person has a right to social security as a public service of a non-profit character. Workers, whether or not they are dependent on a boss, will enjoy this right*”.

“*House work is an economic activity that creates added value and produces wealth and well being. House wives have the right to social security, in accordance with the law.*”

Chapter 2 – Guiding Principles, Articles 18-24

The law is based on the following principles: social justice and solidarity, the “*untouchableness*” of worker rights and benefits, and the prohibition of any discrimination according to race, age, gender, social condition, creed, or any other condition.

Teenagers doing work that could affect their “*integral development*” is prohibited.

In terms of gender equality, article 20 states that, “*The state guarantees the equality of women and men in the practice of the right to work. Employers will apply the criteria of equality and fairness during selection, training, promotions, and work stability, professional training and remuneration, and are obliged to encourage equal participation of women and men in leadership responsibilities*”.

Exclusion, preference, or restriction in access to work and work conditions based on race, gender, age, civil state, unionisation, religion, political opinion, nationality, sexual orientation, disability, or social origin, is

prohibited. Protecting maternity and paternity rights, children, or people with disabilities is not considered discrimination.

The legislative process and administration exists to offer workers and employers solutions to conflicts, and such processes should be free, quick, efficient, fair, accessible, impartial, transparent and without “*formalisms*”.

Chapter 3 – The right to work and the responsibility to work, Articles 25-29

Article 25 states that ***“the social process of work has, as its main objective, to overcome forms of capitalist exploitation, as well as to produce goods and services that guarantee our economic independence, satisfy human needs, through the just distribution of wealth, and create material, social, and spiritual conditions that allow for the family to be the fundamental space for the integral development of people.”***

The “*social process of work*” should contribute to guaranteeing: independence and national sovereignty, economic sovereignty, human development for a “*dignified existence*” and economic growth that “allows for the elevation of the standard of living of the population, food sovereignty and security, protection of the environment and the rational use of national resources. The social process of work is based on “*protagonistic and participative democracy, social justice, and the co-responsibility between the state and society to guarantee complete social inclusion and integral human development*”.

According to article 26, “*Every person as a right to work and the responsibility to work according to their capacity and aptitude, and to obtain a productive occupation, properly paid, and that provides for dignified and decent existence*”.

Where there are at least ten workers, 90% or more must be Venezuelan, according to article 27. Payment of foreigners should not exceed 20% of total payments made. Refugees are exempt, and when hiring foreigners, those with Venezuelan children, and those with at least 5 years residency, will be given preference.

The work ministry can authorise exceptions in certain cases, such as when special technical knowledge is required and Venezuelans aren't available. The exception is based on the condition that employers then train Venezuelans in the area.

Chapter 4 – Worker protection, Articles 30–34

No one can be stopped from working, nor obliged to work against their will, and the ministry of work can impede the replacement of a worker who has an occupational illness or reduced capacity, for example.

Children under 14 are not allowed to work, except for in artistic or cultural activities that have been authorised by the corresponding body for protection of children and adolescents.

No one can impede “*free transit*” by road, or other paths to work centres. In work places, selling and consuming alcohol or drugs, gambling, prostitution, and weapons are prohibited.

Chapter 5 – The right to work, Articles 35–50

This chapter defines dependent and non-dependent workers as those working under an employer, or not, a “*leading worker*” as one who takes parts in decisions or who represents the employer, and an inspection worker as one who checks the work of others.

Article 43 describes the responsibilities of the employer, including guaranteeing safe working conditions. They are also responsible for work related accidents or occupational illnesses caused to anyone working under them. They are obliged to provide prevention delegates with the necessary facilities and to adopt recommendations made by health and safety committees (article 44).

After defining outsourced labour in article 47 as “*fraud committed by employers in order to distort, deny, or create obstacles for the application of the labour law*” this law prohibits outsourced labour in article 48. That means that the following is not permitted: contracting work entities for a public work, service, and so on that is permanent and directly related to the productive process of the hirer, hiring workers through intermediaries in order to avoid obligations to those being hired, creating work entities in order to avoid obligations, and so on.

Chapter 6 – Prescription of Actions, Articles 51-52

This chapter relates to demands and legal action.

TITLE 2 – WORK RELATIONS

Chapter 1 – General dispositions, Articles 53-54

This brief chapter defines when a work relation exists (when someone gives, and someone else receives a service). Those providing a service to an organisation with no profit motive, voluntarily, are exempt. Work will be remunerated, and where it isn't, punishment will be applied- defined later in the law.

Chapter 2 – Work contract, Articles 55-65

The work contract establishes the conditions under which the person provides their services. Wages can't be below the established national minimum wage, nor less than what other workers are paid for the same work, in the same establishment.

It's preferred that the work contract is in writing, where there is nothing in writing, the statements made by the worker are assumed to be true until proven otherwise. A copy of the contract should be provided to both employer and employee, and should specify: name, I.D number, the name and description of the job, starting date, duration time, work to be carried out, the duration of the working day or shift, the salary and its form of payment, the collective agreement that applies, and so on.

Contracts which were for a determined amount of time and have been renewed twice will be considered permanent. Further, workers can't be made to work for more than a year on a limited contract. Contracts for specific public works are apart from this, and last the whole time required to execute the work.

A work contract then, can only be for a limited amount of time under the following conditions: when the nature of the service requires it, substituting another worker, or Venezuelans working outside the country.

Employers have a number of obligations towards workers contracted to work outside the country, including paying for transport and food, and providing written information about the general life conditions in the country.

Chapter 3 – Replacing an employer, Articles 66-70

When an employer changes because the owner of property, for example, changes, workers agreements and relations will not be affected. Workers must be notified of a change in employer, and if they are not happy, can leave the work and receive all the benefits they are entitled as outlined in this law. In the case of forced expropriation by the state, the previous employer or owner will pay off its debt to the workers.

Chapter 4 – Suspending work, Articles 71-75

Work maybe be suspended in the following cases: an illness or accident, caused by the work place or not, that makes it impossible for the worker to keep working for a period no longer than 12 months, maternity or paternity, military service, declared collective conflict, being detained but not found guilty, permission to care for a family member or spouse, permission to carry out studies, forces outside the control of the worker.

During such a suspension the worker can't be fired but also the employer won't have to pay the salary. Maternity payments are separate.

Chapter 5 – Permanently leaving a job, Articles 76-84

Justified reasons for firing a worker include: immoral behaviour, lack of respect towards the employer, his or her representatives, or their family, negligence that affects work safety, unjustified missing work for 3 days (illness is considered just cause), revealing manufacturing secrets, abandoning work or not fulfilling work obligations in a serious way, sexual harassment.

Similar acts committed by the employer give the worker the right to leave. Salary reductions, being transferred to an inferior position, arbitrary changes in work schedule are considered indirectly firing the worker. In all these cases, the worker has a right to receive social benefits and severance pay.

If a worker leaves voluntarily, he or she must give notice in advance, one month before if they have worked for

one year, a fortnight before if they have worked there for six months, and one week before if they have worked there for at least one month. If a worker leaves a fixed contract early for justified reasons, the employer should pay him or her severance equivalent to the salary owed up till the end of the contract.

Chapter 6 - Work stability, Articles 85-95

“Stability is the right that workers have to stay in their jobs. This law guarantees work stability and ... limits all forms of non-justified firing”.

If a worker is unjustly fired, they have ten days to go to the judge of Sentencing, Mediation, and Execution so the judge can order salary payment. The employer has three days to comply, and if he or she doesn't, the judge can force compliance by confiscating property of the employer. If the employer still fails to comply, they can go to prison for six to fifteen months.

Mass firing is considered to have taken place when at least 10% of a work place with over 100 workers is fired, or 20% of a work place with over 50 workers, and so on. In such a case the labour ministry can suspend it through a special resolution.

TITLE 3: WORKING CONDITIONS AND THE JUST DISTRIBUTION OF WEALTH

Chapter 1 – Salary, Articles 96-130

“Wealth is a social product, principally generated by the workers in the social process of work”.

All workers have a right to a salary that allows them to live with dignity and cover their and their family's material, social, and intellectual needs. Delays in its payment generate interest, at a rate determined by the Central Bank of Venezuela.

This chapter then defines the difference between salary, and non monetary benefits such as funeral expenses, and work clothing.

Increased productivity or improvements in production will cause a pay increase. The national executive can also declare pay increases according to work categories, geographic areas, or to guarantee a fair wealth distribution.

Salary can be stipulated according to time, units of work, tasks, or by commission, says article 112. The following articles define these various ways of calculating salaries.

Night shifts, says article 117, should be paid at at least 30% extra. “*Extraordinary*” hours will be paid at a rate of at least 50% extra. A worker can also receive 50% extra for public holidays or days of rest, when he or she has worked the other normal days of the week. Vacations will be paid at the normal salary, and those who are paid per unit or a commission will receive the average they earned over the three months previous to taking vacations. Indemnity payments will be calculated based on the last salary payment, or likewise, the average over six months in the case of piece or commission work. End of year bonuses are included in the salary calculations.

Salaries must be paid every fortnight, but maybe be monthly when the worker also received food and housing from the employer.

The government will adjust the minimum wage each year. Paying a salary less than the minimum wage will result in punishment, and employers will have to pay the difference to the workers, plus interest as determined by the Central Bank of Venezuela.

Chapter 2 - Participation of workers in the benefits (profits) of work places, Articles 131-140

Work places should distribute at least 15% of liquid benefits (net earnings after tax) obtained at the end of the financial year. For each worker that is also a minimum of one month's wage and maximum of four months. The bonus will also be reduced proportionately if the worker hasn't worked the whole year, including if they left the job earlier in the year, or started later. It should be paid within two months.

Further, businesses- work places run for a profit, should pay workers, within the first two weeks of December, an annual bonus equivalent to 30 days salary, except when the company's profits can't cover it.

Likewise, non profit organisations do not need to divide up the “*benefits*” (profits), as there aren't any, but must

pay an end of year bonus equivalent to one month's salary.

Workers have the right to examine and verify the work place's inventories and balances in order to check that they are being paid the correct amount, says article 138.

Chapter 3 – “Social provisions” (One off post retirement payment), Articles 141-147

All workers have a right to social provisions to compensate them for years dedicated to working. This one off payment is calculated based on the last salary payment and the number of years worked. Payments should be made within five days of leaving the work place. Any delay in payment generates interest.

In order to make this payment, employers should deposit the equivalent of two weeks' pay, every three months, as well as two days' salary every year until 30 days salary are reached. When the person leaves the work place for any reason, the worker will receive which ever amount is greater- the total deposited, or the equivalent of 1 months wage multiplied by number of years worked.

The deposits should be made either to the National Fund of Social Provisions or to an individual trusteeship. There, they will accrue interest. The employer should inform the worker twice a year of the amounts deposited. These deposits and the final payment are tax exempt.

A worker can get an advance on the final payment of up to 75% for purposes such as buying or repairing housing, paying off a mortgage, investment in education, or health expenses.

If a worker dies, his or her children, partner (defined as a stable union), parents, or grandchildren – if they are orphans, have the right to receive the social provision. There are no preferences; where more than one family member makes the claim, the payment will be divided up among them equally.

Chapter 4 – Work protection, salary, and “social provisions”, Articles 148-155

When a workplace is in danger of closing due to technical or economic reasons, the work ministry can intervene in order to protect the productive activity and the right to work. It will create a “protection body”, involving workers, and their unions if they exist, and the employer.

Where there is an illegal or fraudulent closing of a work place or an employer strike, the work minister can, at the request of the workers, order the occupation of the work place and re-start productive activity. The minister will convoke the employer, workers, and their social organisations to form a Special Administrative Board. The board will consist of two worker representatives- one of which will preside over it, and a representative of the employer. Should the employer's representative not attend, he or she will be substituted by a worker. Workers can request state technical help to reactivate the productive process.

Article 151 states that salaries, the “social provisions”, and any other amount owed to the worker will have preference over any other debt owned by the employer, including mortgages and loans. Preventative confiscation of the employer's property can be carried out in order to guarantee this.

Employers can not establish shops within their business, except when access to essential products is difficult, and in that case the shops should charge “fair prices”. Either way, “workers are free to buy wherever they prefer”. Workers' organising cooperatives for such a purpose will be given preference.

Chapter 5 – Dignified working conditions, Articles 156–166

Work will be carried out in safe and dignified conditions, guaranteeing: intellectual, moral, and physical development, training and knowledge exchange during the work process, time for rest and recreation, prevention of and the necessary conditions to prevent sexual and workplace abuse or harassment.

Workers, except for service reasons, can't eat or sleep at their work post. Employers with over 500 employees who work in an underpopulated area, at least 50 km from the nearest town, should provide their workers and immediate family with dignified housing. Likewise, when the work place is 30 or more km from the nearest town, the employer should provide transport from their home to work at no cost.

Employers with over 1000 employees, who are working over 100 km from a city with education centres, should establish educational institutions for the workers' children. The same applies for health centres. Employers with

over 200 employees should award scholarships for the workers or their children so they can continue studying in something related to their job.

Article 164 defines work place harassment as reoccurring abusive behaviour by employer(s) or worker(s). Such behaviour is punishable, as explained in later articles. Likewise for sexual harassment.

Chapter 6 – The working day, Articles 167–177

Rest and eating time should be at least one hour per day, and workers can't work more than 5 hours continuously. During such rest times, they have the right to stop working and to leave the work place. Also where an employer provides transport to the workplace, half of that time will count as work time.

Working days per week can't exceed five, and workers have a right to two days of rest. The working day is limited to 5 am and 7 pm (somewhere between those hours), and can't exceed eight hours per day or forty hours per week (article 173). A working night is between 7 pm and 5 am, can't exceed seven hours per shift, nor 35 hours per week. The same hour limits apply to a "mixed" work week which combines night and day shifts.

However some workers are exempt from such limits: those in a position of leadership, security guards and other's whose work involves just their presence or long periods of inaction, other work routines agreed on in collective agreements between workers and employers. In these cases a working day is limited to 11 hours, and an average of 40 hours per week over an 8 week period, with two days of rest per week.

A similar situation applies to continuous shift work, where the average working week is limited to 42 hours, and if a six day week is worked, an extra day is added to paid vacation time.

Chapter 7 – Extra working hours, Articles 178–183

Extra working hours are those that were unplanned, such as when attending emergencies or something comes up. Such working hours are limited to 10 hours per day, no more than 10 extra hours per week, and no more than 100 extra hours per year. The working day can be extended to these extra working hours in certain situations, such as when, for technical reasons, work can't be interrupted, and if it were to be, there would be material damage, and for inventory work, urgent work, or attending to the needs of the population at a certain time of year (such as the flood season, or conducting repairs to water or gas lines, etc.).

Workers can also be required to work extra hours to recover hours lost due to interruptions in the work schedule because of forces beyond their control, accidents, or atmospheric conditions. Recovering such hours, workers can only work one extra hour per week, and within a reasonable time period.

Extra working hours require the permission of the Work Inspectorate. Employers forcing extra working hours without the permission of the Work Inspectorate will have to pay double time, and sanctions. Employers must register extra hours, if they don't, the workers' word will be taken for the truth.

Chapter 8 – Working days, Articles 184-188

All days are working days, except public holidays. Public holidays include: Sundays, 1 January, Monday and Tuesday of Carnival, Easter Thursday and Friday, 1 May, 24, 25, 31 December, National holidays.

Work places are closed on these days, and work is suspended, except for reasons of public interest (transport, health etc.), technical reasons or special circumstances. Supply stores are permitted to stay open.

If a worker works on Sunday for more than four hours, he or she has the right to a whole day's salary and compensatory rest.

Chapter 9 – Vacations, Articles 189–203

After one uninterrupted year of work, workers have the right to 15 paid working days (3 weeks), and the years that follow that they will have on additional day, up to a maximum of 15. Food benefits also still apply, and an employ can't start firing or transfer proceedings against the worker while they are away. Such vacations also can't affect social security etc.

Further, employers will pay a "vacation bonus" equivalent to 15 working days, plus the extra day per year worked. If a worker receives food or housing while they work, they should continue receiving these things while

on vacation.

If a worker ends the work relation without having enjoyed vacations, they will be paid the equivalent salary. Any suspension of vacations (required by the employer) must be authorised by the work inspectorate. However, a worker can request to accumulate two years worth of vacations, or put them off or move them forward so they coincide with school holidays.

TITLE 4, SPECIAL TYPES OF WORK

Chapter 1 – General dispositions, Articles 204-206

Chapter 2 – On Workers in the home, Articles 207–208

Work carried out in the home, by paid workers such as gardeners, cooks and babysitters, will be regulated by the new law.

Chapter 3 – Working from home, Articles 209–217

Any worker who works from home will be covered by the new law, they also have the right to social security. Employees will be expected to pay workers an agreed wage, to pay for work carried out on Sundays and public holidays, as well as to pay holiday pay and workers' retirement fund contributions.

The working day for workers from home is regulated by the law and workers must also enjoy two full days of rest as established in the law. They cannot be paid less than their counterparts who work in their employer's shop or workplace and who carry out the same tasks. They should never be paid less than the minimum wage.

Employees must reimburse workers from home for any costs incurred as a result of their work, for instance, in the price of computer maintenance. Employers must also register the details of the employment relationship, filling out a form which includes the workers' details and pay arrangements. Failure to do so will mean that the workers' account of the working relationship will be recognised in any matters arising from the employment. Workers must also carry a small book detailing their identity number and the details of their employment. Their failure to do so does not affect their employment rights.

The Work Minister may take whatever measures s/he sees fit when s/he considers a job from home to be damaging to the workers' health.

Chapter 4 – Professional sportsmen and sportswomen, Articles 218-228

All contracts between professional sports persons and their employees must be written up. When their employer benefits from a profit as a result of their work, the employee is entitled to no less than 25% of the overall profit.

Sports people have the right to refuse to be transferred when there are justifiable causes for their refusal.

Contracts can last for a specific time period, when not stipulated, the contract will be considered indefinite. Daily training for professional sports persons should not exceed the limits of the working day established in the law, when it does, employers should provide adequate compensation.

When a sports person does not have a day off on a Sunday, they should be granted another day in compensation. The normalities established in the law with regards to over time, night work and compensation for travelling do not apply to sports people due to the nature of the job.

Any travel related costs, such as insurance, accommodation and travel will be covered by the employer

Sports people can be paid for individual events. They may receive different salaries for the same work depending on the event category or experience.

Chapter 5 – Agricultural workers, Articles 229-238

An agricultural worker is defined as working in a rural environment. Office, commercial or industrial workers who produce agricultural goods are exempt. Agricultural workers can work on a permanent, temporary or seasonal basis.

90% of agricultural workers employed by an employer should be Venezuelan. During harvest time or when there

is a labour scarcity, a work inspector may give authorisation for the employer to contract more foreign workers than the legal amount.

Employees will be required to maintain a book for each agricultural worker detailing their payments, including pay advances. Failure to do this will mean that the employer will be unable to demand payment from the agricultural worker for any debts owed for pay advances.

If the agricultural worker has personally cultivated a plot of land within the agricultural production unit, they will be entitled to stay there once the working relationship has ended. If they did not make use of that right, the employer will be obliged to pay the agricultural worker for the value of any produce which remains in the agricultural production unit and has been cultivated by the worker. When the employee is accused of occasioning damage to the agricultural production unit, the claim will be reviewed before the agrarian courts.

Agricultural workers will be entitled to paid holidays as defined in the law. Families who work on the same agricultural production unit have the right to enjoy their holidays together if they so desire. Agricultural workers should work no more than 40 hours a week or 8 hours a day. They have the right to two days of rest per week. Night shifts will be from 8 pm – 4 am. When the nature of the job requires it, agricultural workers may work extra hours but they must not exceed 10 per week. In these cases the employer must justify the need for the extra work.

Chapter 6 – Transport workers, Articles 239-286

This section of the law applies to both public and private transport workers. The length of their working days will be decided by collective contracts with the state or the Ministry of Transport.

The transport worker may be paid for individual services; he/she may be paid on the basis of distance, journey time or for an individual journey, provided that this does not exceed his/her working hours.

When the work exceeds the expected time due to circumstances above and beyond the workers control, he/she will be entitled to ask for an increased payment in accordance with his salary. His/her wage may not be reduced if the journey time is decreased.

Employers will be responsible for paying the accommodation and food costs of those workers who undertake inter-city journeys. Workers whose work amounts to more than 6 hours daily must be accompanied by an additional driver who can relieve the worker.

The worker can never be obliged to use a vehicle which is detrimental to his or her health, or the health of passengers and/or members of the public.

Drivers must not consume alcohol or drugs during work or for 24 hours beforehand. They must abide by the country's speed stipulations and keep music to a reasonable level as specified in the law.

Second Section: Maritime, River and Freight Workers, Articles 245-267

Adolescents are not allowed to work on ships or any other kind of maritime river or freight vessels.

When a collective contract has not been agreed, crew members and employers must sign a labour contract prior to embarking.

If loading and unloading the vessel takes place outside of ordinary work hours, they will be considered supplementary. The worker will receive extra pay when handling explosives or flammable goods, and when they undertake cleaning activities of the vessel when it is grounded.

Work contracts which are due to expire in the preceding 8 days leading up to a journey can be terminated by workers, provided notice is given to the captain 72 hours prior to the vessel embarking. Workers can opt to terminate their contract if the nationality of the vessel changes. When the journey takes longer than expected, the worker will be entitled to increased pay in accordance with their salary. Their pay cannot be reduced if journey time is decreased.

If the vessel docks at a foreign port, workers can ask to be paid in local foreign currency equivalent to their payment in bolivars on the day of payment. Workers should work no more than 40 hours a week, although how

many hours a day they work may be flexible, so long as their weekly average does not exceed 40 hours. Work required on Sundays or bank holidays must be justified according to the law and workers must be remunerated accordingly.

Workers obliged to carry out guard duty must have had four hours of rest prior to commencing their shift, except when they are just beginning a contract or in an emergency situation. Workers have the right to 8 hours of uninterrupted rest daily, except on small carriage boats when their working timetable may be split into two shifts.

If the captain considers it necessary, workers may be required to undertake guard duty when the ship is stationary. These details must be noted down in the ship's navigation notes. Under no circumstances must workers leave the vessel when on guard duty.

When the crew is reduced due to an emergency situation or illness, crew members will not be entitled to extra pay. In the case of nautical errors which result in the journey taking longer, those directly responsible for the errors will not be entitled to extra pay. Crew members will not be entitled to extra pay if the boat must be stopped and reviewed on the Captain's orders due to health and safety issues.

As well as their annual holiday leave, workers are entitled to three full days of paid holiday when the vessel does not dock regularly in a port for more than 24 hours. During this time, employers must pay for the workers' food and accommodation, or pay them the equivalent monetary value.

Employers of maritime, river or freight workers are obliged to; provide comfortable and hygienic living conditions on board, provide sanitary, nutritious and sufficient food, pay for food and accommodation when the vessel docks at a foreign port for repair and the crew cannot remain on board. Employers must take measures to allow workers to exercise their democratic rights during an election, as well as provide them with medical and emergency treatment when they are not covered by their social security, with the exception of long standing already diagnosed medical conditions. Employers are required to report any accidents on board to the necessary authorities and to ensure that the worker returns to Venezuela. In the event of a disaster, workers must be paid their wage and transported back to Venezuela.

Boats cannot be manned by less than two people and the crew cannot be obliged to navigate under adverse conditions. Vessels with more than 15 crew members will be accompanied by an elected official who will act as a union representative whilst on board.

Workers may be dismissed in the following circumstances; when they fail to turn up on time and miss the ship embarking, intoxication on board, insubordination to the captain, the violation of import and export laws, negligence which could affect the other crew members' safety. Workers cannot be dismissed whilst at sea or in a foreign country, unless they were contracted there.

Section Three: Air transport workers, Article 268-282

The working day for airline workers will be established via collective contract or by the Minister for Airline Transportation. When workers have been absent for a period of 30 days, they must submit themselves to a training course.

Air transport employers must employ back-up teams when work regularly exceeds the legal working day. Air transport workers must enjoy at least one free Sunday once a month. Employers must provide food and accommodation when required due to a work-related situation.

Employees must not consume alcohol on board or 24 hours prior to flying, they must not use drugs, when the worker is consuming prescription drugs, a prescription must be produced and submitted to the employer. Employers are responsible for the safety maintenance of the vessel.

Employers are responsible for worker's food and accommodation when away from home for work purposes, and maintaining site security and acting on any technical problems with the aircraft reported by crew members in charge of the place.

Articles 279 – 281 detail the responsibilities of employees, including those responsible for the aircraft. They include ensuring that passengers on board comply with legal requirements, verifying before each flight that the aircraft meets all safety requirements of air transport authorities, and informing airline owners at the end of each

flight of any technical issues or failures detected. If the crew member responsible for the flight detects any safety risk before or during take-off, they must abort the flight.

A special law detailing labour relations between crew members and employers is to be drawn up in a consultation process, especially with crew members and their trade unions.

Section Four: Motorized (Motorbike) Workers, Articles 283–286

This sections covers those who work on motorbikes, such as moto-taxis, delivery drivers and messengers, even those who are self-employed and own their own vehicle.

Employers are responsible for vehicle maintenance, fuel, providing uniforms, and the health insurance of the driver. Accidents experienced by drivers during or as a consequence of working will be considered work-related.

A special law detailing labour relations between motorized workers and employers is to be drawn up in a consultation process, especially with motorized workers and their trade unions.

Chapter 7 – Cultural Sector Workers, Articles 287-288

A special law dealing with labour relations between culture workers and employers is to be drawn up in a consultation process, especially with culture workers and their trade unions. This will protect culture workers in any relation they may have with an employer.

Chapter 8 – Workers with Disabilities, Articles 289-292

Article 289 tasks the state with promoting, adopting and developing public policies to ensure the full social inclusion of disabled workers, including incorporating them into “productive and dignified” labour.

Article 290 enshrines disabled people's right to work, requiring employers to employ a minimum of 5 per cent of people with disabilities, consistent with their skills and abilities, as part of the workforce. Disabled workers must be treated with dignity and will enjoy the same labour conditions and guarantees as other workers.

Article 291 outlines that the state, in conjunction with society, must develop cooperatives, companies of social property, and communal companies, with the support of communal and worker councils, to guarantee a dignified and fulfilling life to disabled persons and their families. The ministries of labour and social security are responsible to ensure disabled people's access to education and entrance or re-entrance into socio- productive activities.

Further rules of labour relations between disabled workers and employers will be developed in a special law, with the aim of favouring disabled workers.

TITLE 5, THE COLLECTIVE, INTEGRAL, CONTINUOUS AND PERMANENT EDUCATION AND TRAINING OF THE WORKERS IN THE SOCIAL PROCESS OF LABOUR

Chapter 1 – General Dispositions, Articles 293–298

Education and work are described as “*fundamental processes for the creation and just distribution of wealth*”, the satisfaction of the needs of the people, and the construction of a peace loving society of equals as set out in the national constitution.

Education and training of workers is aimed at their integral development to overcome the fragmentation of knowledge and manual and intellectual social divisional of labour. It is part of the social labour process, aimed at developing the creative potential of each worker and socially emancipatory labour. It aims to create workers who are conscious, participatory, responsible, and committed to independence, national sovereignty, and the process of structural transformation that leads to the greatest possible sum of happiness.

Scientific and technological research is aimed at producing inventions and innovation linked to internal and national development to better produce goods and services that satisfy the needs of the Venezuelan people.

The state, in conjunction with society, is responsible for creating education and training opportunities for workers, and guaranteeing collective education and training opportunities in workplaces.

Chapter 2 – Education and Training for Work, Articles 299–311

Through the education process, the state is held responsible for creating the conditions in which citizens gain dignified, secure and productive labour which ensures their well being and that of their families and communities.

Article 300 states that young adults have the right to participate in the development of the nation. As the result, the state must provide for their education and inclusion into the social process of work as students, apprentices, interns, scholarship holders, and workers.

Articles 302 to 305 address apprenticeships, defining apprentices as adolescents between 14 and 18 years of age who undertake systematic technical, scientific or technological training courses. If during their training apprentices undertake the same labour as regular workers, they must receive the same salary and benefits. Upon finishing training, apprentices become regular workers under this law.

Employers must contract apprentices in their workplace, the number of apprentices depending on the corresponding laws for that employment sector.

Articles 306 – 310 deal with internships, which are considered work placements as part of a course of higher education studies. If interns continue working with an employer after the end of the agreed period of the internship, that will be considered a labour relationship and fall under the provisions of this law.

According to article 311, as part of state missions (social programs) concerning the education and training of workers, employers will need to provide space and personnel to support these programs for workers in their employment.

Chapter 3 – Education in the Workplace, Articles 312–319

Article 312 gives workers the right to technical education related to the productive process in which they work, which is the responsibility of the employer to provide. This includes the right of workers to learn about the entire productive process of which they form a part.

Article 313 gives workers and the working class the right to organise themselves in the workplace for their collective self-education, linked to education and training programs of state missions and universities focused on education in the workplace. Workers are also guaranteed the right to education and knowledge beyond the technical processes of their job, with the state responsible for academic recognition of workers' knowledge gained in the workplace.

Employers are to provide facilities in the workplace for the education of the workers. In article 318 employers or workers organisations can sign agreements with educational institutions to promote education and training in the workplace.

Article 319 states that knowledge from workplaces will also be used to benefit the communities in which they are located.

Workplaces must present a plan for the education and development of workers in their community to the ministries of education and of labour every two years.

Chapter 4 – Inventions, Innovations, and Improvements, Articles 320-329

Inventions, innovations and improvements are classed as products of the social process of labour, to satisfy the needs of the people through the just distribution of wealth.

All intellectual production will be regulated by the relevant law. These are conceived, among others, as intellectual works or connected activities, inventions, industrial designs, and brands.

Inventions, innovations and improvements produced in the public sector are considered to belong to the public domain, with the right of recognition remaining with the author.

In the private sector, the intellectual rights to an invention remain *“in an unlimited form”* with the workers who invent or produce the innovation, not with the employer, who is considered only to be temporarily benefiting from the invention of their workers. The money due to employees for providing the benefits of their invention to the employer is to be agreed by both parties and approved by the Work Inspectorate. Failing agreement by both

parties, a judge will rule on the matter.

When workers with the intellectual property to an invention, innovation or improvement leave employment, the employer has a 90 day period to acquire the right to economically benefit from the worker's invention, through a work inspector or labour judge.

A worker will always maintain a moral right to their invention, which under no condition can be removed from them.

Self-employed workers who produce an invention or artistic work have full economic and moral rights to their product.

TITLE 6, PROTECTION OF THE FAMILY IN THE SOCIAL PROCESS OF LABOUR, ARTICLES 330–352 (NO CHAPTERS).

The social process of work and every workplace must protect maternity and support parents in raising, educating and maintaining children.

Article 332 prohibits employers from soliciting medical reports or exams from female applicants to a job to determine whether they are pregnant or not.

Articles 333 to 338 address the labour rights of pregnant mothers. They include the illegality of requiring pregnant mothers to undertake any tasks which would put either their life or that of their baby in danger. Pregnant workers will have their job legally guaranteed for two years after giving birth, including if they give their baby up for adoption.

Maternity leave is granted for 6 weeks before and 20 weeks after giving birth, to be extended in case of illness, during which time the mother will receive full salary and benefits. This also applies to mothers who give their baby up for adoption.

In the case of the birth taking place later than the expected date, pre-natal leave will be extended accordingly and post-natal leave must be maintained at 20 weeks. In the case of the birth taking place early, for any reason, the remaining pre-natal leave will be transferred to an increased post-natal leave period. Maternity leave periods cannot be renounced under any condition.

Article 339 says that the father also has his job legally secured for two years after the birth of his child.

Articles 344 and 345 explain the legal responsibilities of employers toward employees with children. Employers of more than 20 workers must maintain a nursery centre, with a breastfeeding area, where the adequate attention and education will be guaranteed to the children of workers from 3 months to six years old. The ministries of labour, education and social security will ensure that such centres have suitable staff and are certificated centres of education.

Articles 345 – 352 outline more parental rights in the workplace. Mothers have the right to two half hour breaks per day to breastfeed their children. If there is no breastfeeding room provided, these will be extended to an hour and a half for each break. It is illegal to pay pregnant workers or breastfeeding mothers less salary than other workers.

If a worker, male or female, with children has a disability or illness making it difficult to look after themselves, their job will be permanently legally protected.

Article 348 tasks the state, in conjunction with society and organised communities, with providing support for the care and protection of vulnerable members of families, including children, the elderly, and adolescents, when they need special care. The state and organised communities will also promote and design programs for social tourism, culture and recreation to make possible the full enjoyment of free time for workers and their families.

The state and organised communities are also charged with developing programs and policies to ensure the maximum social inclusion, participation and protection of all members of families, especially those most vulnerable or in situations of poverty, with the aim of overcoming poverty and achieving the maximum possible sum of happiness.

TITLE 7, WORKERS RIGHTS TO BE INVOLVED IN SOCIAL ORGANISATIONS

Chapter One – Trade Union Rights, Articles 353-430

According to Sections 1-7, Workers have the right to be affiliated to trade unions without exception and free of discrimination. Trade union activity is also a right guaranteed by the state. Employers cannot fund trade unions, establish them, obstruct union activities or discriminate against workers based on their trade union affiliation. Employers have a legal obligation to put an end to anti-union activities within 72 hours of becoming aware of them. Failure to do so is punishable by law.

Unions are defined as organisations which explicitly develop and protect the social process of work, as well as the working class in conjunction with the people. They should promote environmental and drugs awareness and communal responsibility, as well as set up support and savings funds for members, cooperatives, communal libraries, industrial and professional schools and leisure and sports clubs.

Employers may also form solidarity organisations in conjunction with the Venezuelan Constitution. Unemployed or retired citizens may join trade unions but they may not establish their own trade unions. They are free to establish other organisations which represent their interests.

These sections outline how many members are required to constitute a trade union (the number varies according to union type, but unions of professional workers, for example, need a minimum of 40 worker members), as well as details on the registration process. Unions may not take decisions which contravene Venezuela's constitution. Trade union members are legally entitled to play a full, protagonistic and democratic role in the development of their union and in any decisions that that union may take, including changes to articles in its manifesto and the elected members of its directive committee. Unions are also required to *"contribute to ... the needs of the people"* (article 367), promote responsibility for the community and the environment, and represent all workers who request it, whether they are members of the union or not.

Unions should also create emergency, savings, cooperative, industrial or professional school, public library, and recreation funds.

These sections also outline the circumstances under which a trade union member can be subject to a disciplinary procedure, including misappropriation of public funds or failing to comply with their functions.

Likewise, anti-union practices are prohibited, and the state will ensure there is no pressure or discrimination against a workers' right to active and democratic participation. Employers can't pressure a person to join or not join the union, discriminate against them based on union membership, nor prevent or intervene in union meetings. Section two outlines the procedures to follow when union freedom is restricted, by the employers or by anyone else.

Unions have a right to distribute their information material at their work place, and union leaders have the right to enter the work places of the union's members, without interrupting normal work activity.

Section 6 outlines member's rights, including to be consulted, make decisions through general assemblies, referendums, and other mechanisms. They have a right to transparency- to observe how the union's funds are being administered, and to elect, or be elected.

Section 7 describes the running of union elections, including the importance of electing a leadership board through direct, universal, and secret voting. Leadership boards will be elected for the period the union decides, but no more than three years. Unions run their elections according to their preferred procedures, but must do certain things within the law, and procedures must be made clear in their statutes and internal regulations.

Section 8, articles 411–417, deals with the management of trade union funds. Trade unions have the right to administrative autonomy: to manage themselves and administer their funds with financial independence. Those affiliated to a union have the right to accountability over the funds managed by that union.

Employers are legally required to discount union dues from workers' salaries and pay the money to the union, in line with union statutes and agreed by workers. Refusal to do so is punishable by law.

The administrative council of a union must present its accounts to a general assembly of its members every year. Union officials who misappropriate funds will be sanctioned by the law. It is illegal for employers to pay

union officials or advisors.

Section 9, Articles 418–425, addresses job security and trade unions. Any worker who has their job legally guaranteed or enjoys a protection termed “*union charter*” cannot be dismissed, transferred, or demoted without just cause as approved by the Work Inspectorate. The state’s protection, guaranteed by virtue of the union charter, is granted in defence of the autonomy and collective interest of trade unions.

Workers who have their jobs protected by union charter include the leading officials of a unions’ directing council, those in the process of registering to join a union, workers standing for union elections, and workers on strike.

Workers with legally guaranteed job protection outside of the union charter include mothers and fathers from the confirmation of a pregnancy until two years after the birth of a child, workers with children with a disability or sickness requiring special care, and during the suspension of the work relationship.

Section 10, Articles 426 – 430, covers procedures for the dissolution of trade unions. Causes for the dissolution of a trade union include a decision made by two thirds of union membership to do so, a decision by members to incorporate themselves into another union, lacking sufficient members for its constitution, union inactivity for three years, the disappearance of the workplace, and lacking legal requisites set out in the labour law.

No administrative authority can order the dissolution of the trade union, only a labour judge when following correct procedures.

Chapter 2 - Collective Work Agreement (Collective Negotiation), Articles 431–471

Section 1 of this chapter asserts that “*all workers have the right to collective negotiation and agreements ... to establish work conditions ... and the rights and obligations corresponding to each party*”. Work agreements can’t establish conditions that are less favourable than existing worker contracts. Collective agreements last 2-3 years, but when an agreement expires, its stipulations are current until a new one substitutes it.

This section also describes how collective agreements work when there are various work places in one company, or branches, and so on. It describes the procedures for opposing negotiations, determining representation at the negotiations, and the importance of establishing a committee to evaluate and follow up on the agreement.

Section 2 applies specifically to public sector collective agreements. In this case, the president of the country with the ministers’ council, will establish the financial and technical criteria that their representatives will take to national collective negotiations, and likewise, state governors and mayors for their jurisdictions.

Non compliance with the technical, financial, and legal aspects of the agreements, by public institution representatives, falls under the anti-corruption law. Section 3 describes private workplace agreements, where the main difference is the role of a work inspector, who can observe, advise, and verify the legality of the agreement, then, within ten days, validate it.

Section 4 describes procedures for the convoking and running of the meeting to negotiate the contract. The labour ministry will verify and intervene in these procedures. The meeting will conclude 120 days after it began, but the labour minister can extend it up to 60 days more, so that the parties arrive at a definitive agreement. Where there is no definitive agreement, the labour ministry can subject the differences to a mediation process. If there is still no agreement, the matter can be taken to court, unless the workers express their desire to strike.

Chapter 3 – Collective conflict at work, Articles 472–496

Here the law goes into workers’ strikes, solidarity strikes, arbitration, and other methods when work conflicts arise. The first section outlines general concepts, such as the need to notify the corresponding attorney body for public sector conflicts, or the Work Inspectorate. Such notification is the first step in proceeding towards conflict.

Article 476 outlines reasons for a negotiation based conflict: the employer has stopped attending negotiations, the negotiation period has ended without an agreement, workers have rejected arbitration after the negotiation period is over, conciliatory proceedings have been exhausted, or when the employer has not complied with negotiation regulations. 24 hours within receiving the petition, the work inspector must send a copy to the employer(s). A conciliatory board will be formed with worker and employer representatives. Workers can strike during this time, however.

Section 2 defines essential public services and how this relates to strike rights. Basically, they are “the production of goods and services whose paralysation causes damage to the population”. The work minister can rule, during a strike, that certain activities can't be paralysed. However, providing minimum indispensable services can't involve so many workers that it compromises the effectiveness of the strike.

Section 3 is about striking. It defines a strike as a “collective suspension of work activity”, workers are allowed at the work place during a strike, and public services can strike only when it doesn't cause “irremediable damage to the population or infrastructure”.

Requirements for striking include: having presented the list of demands, as outlined above, and that 120 hours have passed since presenting the list. Solidarity strikes go through similar procedures - though instead of a list of demands, they present a declaration of solidarity.

Importantly, workers' service time isn't affected by strikes, and companies can't hire workers or transfer workers from other places to carry out the work of the strikes.

Section 4 is about arbitration procedures. The arbitration board consists of someone selected by the workers from a short list chosen by the employer(s), another by the employers from a short list put together by the workers, and a third of mutual agreement. If they can't agree, the work inspectorate will choose someone. The people chosen can't be directly related to the conflict, nor family of those in the conflict. The arbitration board has the same investigation authority as other courts, it can interview people publicly and so on, and it takes its decisions by majority.

Chapter 4 – Participation and collective protagonism of workers in management, Articles 497-8

This short chapter says that workers' councils are expressions of “*popular power for protagonistic participation in the social process of work, in order to produce goods and services that satisfy the needs of the people*”. Forms of worker participation and management however will be established in special laws, according to article 497. Workers councils will have different attributions to union organisations.

TITLE 8 – INSTITUTIONS FOR PROTECTING AND GUARANTEEING RIGHTS

Chapter 1 - Work administrative organisms, Articles 499-505

The work and social security ministry is in charge of the implementing of this law, making sure that it is complied with, collecting and processing information to support writing and carrying out policies and plans related to work, monitoring to prevent fraud and to guarantee work stability, creating plans and missions for worker training and development, supervising and inspecting work places to make sure they are guaranteeing working conditions such as health and safety, attend to informal workers, publishing a 6-monthly progress report, protecting and facilitating union freedom, providing free legal assistance to individual and groups of workers, applying fines or punishment for infractions, and supporting and collaborating with workers in the reactivation of expropriated companies.

The labour minister can authorise temporary work occupations, call work negotiating meetings, decide on what services are indispensable, order arbitration of work conflicts, deciding on punishment proceedings against work inspectors, ratify or revoke a decision to punish a civil servant by firing them, create work inspectorates, create centres of work and education, among other functions.

Chapter 2 – Work inspectorates, Articles 506-513

There should be at least one work inspectorate per state and territory. Such entities have functions already outlined above (mediation, enforcing the law), as well as inspecting work places in order to guarantee health, safety, maternity and paternity and so on. They should also protect union rights and the right to strike and can impose penalties. This chapter also describes the relative functions of sub-inspectorates, national inspectorates, and implementation inspectors, and describes the procedures workings should go through and inspectors should comply with (such as time limits for responses) for workers' claims.

Chapter 3 – Workplace supervision, Articles 514-516

The inspectorates can visit work places in their jurisdiction at any time of day in order to verify that they are complying with the law, and without needing to notify the employer that they are coming. During the visit,

inspectors can order any test or investigation that is relevant, or question any employer or worker about any aspect of the job, as well as looking at documents.

Chapter 4 – Registers, Articles 517-520

The labour ministry will have a register of all union organisations. This registry will include which unions are in compliance with the law, union annual accounts, membership, leadership, and will register any dissolving of unions, in order to be able to compile information and statistics about unionisation for an annual report. It will also have a register of work places.

TITLE 9 – PENALTIES

This title outlines various penalties and fines that can be imposed when this law is disobeyed. Note, Tax Units (UT) increase in value each year, usually following inflation. As of May 2012, 1 UT was worth 90Bs, or US\$21.

An employer who doesn't pay their worker on time, or enough, or in a prohibited place, will be fined a minimum of 30 to a maximum of 60 UT (article 523). Employers pay the same fine for not displaying working hour information properly, for breaking the maximum working day and week hours, for hiring a too high percentage of foreigners, and for sexual or workplace harassment.

Employers who don't correctly pay workers their benefits or end of year bonus are subject to a fine of 60-120 UT. Likewise, employers who wrongly fire a worker, or ignore a labour ministry order.

Those employers who pay below minimum wage, or don't pay wages and vacations "opportunely" will have to pay a fine of 120-360 UT. Likewise, for infringements regarding maternity and paternity rights, fraud or disguising the nature of the work place in order to not apply the law, denying union freedom or the right to collective negotiation.

Certain cases warrant arrest, including an employer who refuses to obey an order to rehire a worker, violating the right to strike, obstructing the work of the administrative authorities, or illegally or unjustifiably closing a workplace (6-15 months).

Inspectorate workers who don't fulfil their obligations within the time limits, if they have the means available to do so, will have proceedings opened against them, and if they receive money or gifts, they will be fired. Likewise, other civil servants with leadership positions, who don't fulfil their responsibilities, could have proceedings started against them.

Some workers are also subject to penalties; union leaderships who don't call for elections in the time period stipulated by their statutes, or who deny membership to a worker, can receive a fine of 30-60 UT.

This title concludes with details on the procedures for applying penalties and for appealing.

TITLE 10 - TRANSITORY DISPOSITIONS

As is customary, the law concludes with time limits for transitioning over to the new law. For example, companies with outsourced labour have a maximum of three years to adjust to the prohibition of such labour.

The full law, in Spanish, is available [here](#).