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Bolivia Defends Decision to Legalize Child Labor from Age 10

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In sharp contrast with international law and with statutes in place in other South American countries, which are trying to stamp out child labor by prosecuting anyone who employs minors under the age of 14, the progressive government of Bolivia has decided to lower the minimum age at which children can work—to 10.

The change went into effect on July 17 as part of a new Código Niño, Niña Adolescente (Code for Children and Adolescents), which the governing Movimiento al Socialismo (MAS)—via a bill that became Ley 548—developed and approved without opposition. MAS defended the decision by saying it reflects what for "innumerable" families is simply a fact of life. The party also emphasized that the age reduction—from 14 to 10—is just one aspect of the updated Código.

"Child labor already exists, and it is difficult to fight against it," said MAS Sen. Adolfo Mendoza. "Rather than crack down on it, we want to guarantee children’s labor security so that, step by step, we can eradicate [child labor] in the next five years. For that reason the law includes necessary safeguards in labor, health, and education rights."

The legislature originally planned to vote on a bill developed in accordance with International Labour Organization (ILO) and UN Children’s Fund (UNICEF) standards. It was forced to change course, however, because of a street protest carried out last December by the Unión del Niño, Niña y Adolescente Trabajador (UNASTBO), a labor group representing children aged 5 to 17. The demonstration, which was repressed by police, aroused the sympathies of President Evo Morales and prompted senators to revise the text.

"When children work, they do so because it’s necessary for their families. In Bolivia, doing away with child labor is like forcing children not to have a social conscience," said Morales, an indigenous man who worked, starting at age 6, as an ice cream vendor, llama shepherd, and coca-leaf collector.

Officials from the ILO and UNICEF criticized the law. Guillermo Dema, a subregional coordinator with the ILO’s International Programme on the Elimination of Child Labour (IPEC), said the new law marks a "return to the times of slavery." The comment was met with indignation by many Bolivians, who accuse Dema of ignoring the country’s economic realities.

Other outside groups, such as Save the Children, expressed a favorable opinion of the government initiative. "One has to have the necessary humility and wisdom to look at the situation as it really is and accept that, in this region, children are an active part of the family economy and, starting at a young age, play a vital role in the community," a spokesperson for the organization was quoted as saying in a Jan. 14 BBC Mundo article.

Filling a legal void

The law was enacted in Morales’ absence by Vice President Álvaro García Linera. Prior to presenting a basic outline of the Código, García Linera noted how "complicated" it was to develop
the legislation. "There are a set of international conventions that need to be respected as well as a Bolivian reality, a heritage, ways of doing things typical of the work and the situation of Bolivia’s children and adolescents. All that had to be taken into account," he said.

García Linera also pointed to various aspects of the law that critics tend to overlook. Among other things, the law stiffens penalties regarding infanticide, penalizes bullying, and establishes a set of preventative and corrective educational measures to guarantee the rights and proper treatment of students, he explained. In addition, the new Código introduces legal guidelines regarding sexual violence against children and establishes a system of punishments for adolescents convicted of committing crimes. All of these are areas that Bolivian law had previously failed to provide for.

During his formal presentation of the Código, García Linera focused in particular on four central aspects: 1) For the first time "there is an acknowledgement of the unpaid labor training that takes place within families and contributes to peoples’ knowledge, discipline, and social skills." 2) It establishes on an exceptional basis that people can be self-employed starting at age 10. "This is allowed only in duly justified circumstances and after a family’s socioeconomic situation has been taken into account," the vice president said, adding that "in these cases—and we’re talking here about a child who shines shoes or helps his mother sell things in the street—[the child’s work] cannot affect his or her right to an education or pose a danger to the minor’s health of development." 3) Outside employment, meaning when people are paid by a third party, is allowed starting at age 12 but only with written permission from parents. 4) In addition, the law favors a system of quick adoption by offering two forms of support to people who want to adopt: a permit allowing people to take two months off work so that they can adapt to the presence of a new member of the family, and a mechanism that protects a person’s job for a period of two years.

Facts and figures

A study carried out in 2008 by the government and the ILO exposed various aspects of Bolivian economic reality that Dema and others have failed to take into account. Researchers found that nearly 28% of children between the ages of 5 and 17 engage in some kind of work. More than half of those children (52%) live in rural areas compared with 48% in cities. The bulk of the country’s child laborers, furthermore, face at least some degree of danger in their jobs, which include tasks such as harvesting sugarcane and Brazil nuts, collecting coca leaves, and working in commercial or informal mining operations, in textile workshops, or as street vendors.

In absolute values, the numbers end up being contradictory, but the Defensoría del Pueblo suggests as many as 800,000 children may be working in Bolivia. The government entity estimates, furthermore, that 87% of those children carry out dangerous jobs—tasks for which the physical demands exceed the physical development of minors—such as harvesting, mining, and construction.

UNICEF also carried out a study of Bolivia’s child-labor situation. Basing its conclusions in part on numbers drawn from Bolivia’s 2001 Population and Housing Census (Censo de Población y Vivienda)—the last complete census available given that the 2012 version was boycotted by nongovernmental organizations (NGOs) and is thus considered inconclusive—the UN body noted that the "magnitude, the heightened precariousness and the exploitation regarding child labor in different areas of the Bolivian economy is one of the country’s most acute problems." UNICEF concluded that 13% of children between the ages of 7 and 13 and 27% of children in the 14-17 age group are engaged in some kind of work, either in paid jobs or within families. It also found that minors represent 34% of the economically active population (EAP) in rural areas and 24% in cities.
The "worst" jobs

It’s good to know the facts. In its report, UNICEF cited three areas it considers to be "the worst kind of child labor." Topping the list is mining. The organization found that, of the estimated 38,600 Bolivians who work in the mining sector, approximately 3,800 (10% of the total) are children and adolescents. UNICEF also noted that children under the age of 12 are "paid in kind," meaning that, instead of wages, they are giving a minimal percentage of the minerals they extract, while adolescents earn approximately 200 bolivianos (US$29) per month, "which represents approximately 14% of a household's income."

Second on UNICEF’s list is sugarcane harvesting, which takes place between May and November. The harvest involves some 40,000 people in the wealthy eastern province of Santa Cruz alone. Roughly 22% of those laborers are children aged 9 to 13. The third-ranking "worst" job for children is harvesting Brazil nuts, which takes place between December and March and is complemented by a production phase that runs from April to November. As of 2007, the last time relevant data was collected, approximately 2,600 boys and girls and slightly more than 2,000 adolescents worked the harvest. Two-thirds of those minors also labored in the production phase, "working between 2 a.m. and 7 a.m., before going to school," UNICEF reported.

The Bolivian government—which Argentine writer Juan Sasturain describes as "the most progressive of the various progressive governments that thankfully have emerged in South America —insists that it neither violates nor will violate any of the international agreements it has signed. But it is also determined to take the country’s long-entrenched economic realities into account.

"The new Código doesn’t turn a blind eye to reality to impose an illusory new order through a simple norm," García Linera said upon enacting the law last month. "Our challenge is to move from the situation we have now toward the goals established in the international agreements we’ve signed. Our challenge is to eradicate child labor within five years. But to do more than make simple declarations, first we need to acknowledge that [child laborers] exist and protect them, assuring those children that they can continue supporting their families, but with their health and education guaranteed by the state."

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