







# LEGAL FRAMEWORKS FOR WOMEN'S ECONOMIC AUTONOMY AND EMPOWERMENT IN IBERO-AMERICA AND THE CARIBBEAN



## Chile\*





\* information updated as of August 2019

### REFORM AGENDA

LEGAL TEXT	AREA FOR WOMEN'S ECONOMIC EMPOWERMENT	ACTION	CURRENT TEXT (TO BE REFORMED)
Labour Code of 1994 (subsequently consolidated in the Act in Force of Law, 1 January, 2003, last amendment 2 May 2019)	<b>Freedom of choice of employment</b> 	Eliminate 	<p><b>Article 211-J.</b> Minors aged below 18 and women cannot manually carry, transport, load, drag or push, without mechanical assistance, loads above 20 kilogrammes. For these workers, the employer must implement safety and mitigation measures, such as rotation of workers, reducing lifting heights, or increasing the frequency of load handling. The details of the implementation of such measures shall be contained in the Technical Guide for the Evaluation and Control of Risks Associated with Manual Operation or Handling of Loads.</p> <p><b>RECOMMENDATION:</b> Eliminate restrictions on freedom of choice of employment for women related to the maximum loads that women can handle in their job.</p>
	<b>Equal pay</b> 	Reform 	<p><b>Article 62 bis.</b> The employer must comply with the principle of equal pay between men and women who carry out the same work, with objective differences in pay that are based on, among other reasons, capabilities, qualifications, aptitude, responsibility, or productivity, not considered to be arbitrary. Complaints made invoking this Article shall be examined in accordance with Paragraph 6 of Chapter II of Heading I of Book V of this Code, once the complaints procedure established for such purposes in the company's internal regulations has been concluded.</p> <p><b>RECOMMENDATION:</b> Extend the principle of equal remuneration for work of equal value (and not only for equal work), in line with the provisions of ILO Convention 100.</p>
	<b>Paternity leave</b> 	Reform 	<p><b>Article 195.</b> The father shall have the right to paid leave of five (5) days in the event of the birth of a child, which he may use as he chooses from the moment of the birth, in which case it shall be continuous, excluding the weekly rest period, or he may distribute it within the first month from the date of the birth. This leave shall also be granted to the father going through an adoption process and shall be counted from the notification of the resolution granting the personal care or approving the adoption of the minor, in accordance with Articles 19 and 24 of Law No. 19.620. This is an inalienable right.</p> <p><b>RECOMMENDATION:</b> Extend paternity leave.</p>



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	<p>Protection of domestic workers</p> 	<p>Reform</p> 	<p><b>Article 149.</b> e) The time between the start and finish of work may under no circumstances exceed twelve continuous hours, considering both the workday and the rest period to fall within the workday. <b>When they live in the house of the employer, they shall not be subject to a schedule, rather that this will be determined based on the nature of their work, and they must normally have a minimum uninterrupted break of 12 hours per day.</b> Between the end of one workday and the start of the next, rest shall be uninterrupted and, normally, a minimum of 9 hours. The remainder may be spread over the workday and breaks for the worker to have meals shall be understood to be included in this.</p> <div style="border: 1px solid purple; padding: 5px; margin-top: 10px;"> <p><b>RECOMMENDATION:</b> Establish working hours of live-in domestic workers under the same terms as live-out domestic workers.</p> </div>
<p>Law No. 3.500 on Social Welfare Regime derived from individual capitalization (approved in 1980 and updated in February 2019)</p>	<p>Social Security</p> 	<p>Reform</p> 	<p><b>Article 3.</b> Members who have reached the age of <b>sixty-five, for men, and sixty, for women</b>, shall have the right to the old age pension, without prejudice to the provisions of Article 68.</p> <p><b>Article 17.</b> Workers who are members of the System, aged below 65 if they are men, and below 60 if they are women, shall be <b>required to make contributions to their individual capitalization account at 10 per cent of their taxable remuneration and income.</b></p> <p><b>Article 55.</b> For the purposes of Article 53, required capital shall be understood to be the expected present value of: The required capital shall be determined in accordance with the technical bases and the <b>tables on mortality and life expectancy</b> which shall be jointly established for these purposes by the Superintendencies of Funds for Pensions and of Securities and Insurance, using the interest update rate indicated by the Superintendency of Securities and Insurance, in accordance with the following section.</p> <div style="border: 1px solid purple; padding: 5px; margin-top: 10px;"> <p><b>RECOMMENDATION:</b> Review contributory requirements in pension systems in line with gender-differentiated retirement and mortality ages, to prevent discriminations in pension coverage.</p> </div>

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<p>Text consolidated, coordinated and standardized from the Civil Code; from Law No. 4.808, on civil registration, from Law No. 17.344, authorizing the change of names and surnames, from Law No. 16.618, Law on minors, from Law No. 14.908, on family desertion and payment of maintenance payments, and from Law No. 16.271 on tax on inheritance, assignments, and gifts</p>	<p>Gender equality and non-discrimination</p> 	<p>Reform</p> 	<p><b>Article 135.</b> By marriage, a partnership of assets is contracted between the spouses, and the husband manages the administration of the wife's assets, in accordance with the rules provided in the title of the marital partnership.</p> <p><b>Article 1749.</b> The husband oversees the marital partnership, and as such administrates the social assets and those of his wife; subject, however, to the obligations and limitations imposed by this Title and any that may have been contracted through a pre-nuptial agreement.</p> <p>As administrator of the marital partnership, the husband shall exercise the rights of the wife who marries as a member of a civil partnership, without prejudice to the provisions of Article 150.</p> <p>The husband may not voluntarily transfer or tax, nor promise to transfer or tax the social assets nor the inheritance rights of the wife, without her authorization.</p> <p>Nor may he, without such authorization, inter vivos, have the social assets cost-free, except in the case of Article 1735, nor lease or hand over ownership of social urban assets for more than five years, nor rural assets for more than eight, including any extensions that the husband may have agreed.</p> <p>If the husband constitutes a surety, joint co-debtor, or guarantor, or grants any other guarantee with regard to obligations contracted by third parties, only his own assets shall be liable.</p> <p>In the cases referred to in the previous section, in order to commit social assets, the authorization of the wife shall be required.</p> <p>The authorization of the wife must be specific and granted in writing, or by means of a public instrument if the action requires such formality or made expressly and directly in any way.</p> <p>In any event it can be provided by means of a special mandate that is made in writing or by public document, as applicable. The authorization referred to in this Article may be requested by the judge, after a hearing to which the wife shall be summoned, in the event that she refuses without just cause. It may also be requested by the judge in the event of any impairment on the part of the wife, such as being a minor, dementia, actual or apparent absence or other, and damages shall ensue from the delay. However, such authorization cannot be supplied if the wife opposes the donation of the social assets.”</p> <p><b>Article 1750.</b> The husband is, with regard to third parties, the owner of the social assets, as if those and his own assets formed one single estate, meaning that during the partnership, the husband's creditors may pursue both his assets and the assets of the partnership; without prejudice to any payments or compensations that, as a consequence thereof, the husband may owe the partnership, or the partnership may owe the husband. Nonetheless, creditors may seek their rights on the assets of the wife, in virtue of a contract concluded between them and the husband, if it is proven that the contract was assigned for the personal use of the wife, such as the payment of her debts prior to the marriage”.</p>

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			<p><b>Article 1751. Any debt contracted by the wife with a general or special mandate of the husband, is, with respect to third parties, debt of the husband and consequently, of the partnership;</b> and the creditor may not seek the payment of this debt upon the assets of the wife, rather only the assets of the partnership and the assets of the husband; without prejudice to the provisions of section 2 of the previous Article.</p> <p>If the wife enters into a contract in her own name, the provisions of Article 2151 shall apply. Contracts entered into by the husband and the wife in concert or where the wife is bound jointly or collaterally with the husband, shall not be valid against the assets of the wife, except in the cases and terms mentioned in section 2, and without prejudice to the provisions of section 1 of Article 137.</p> <p><b>Article 1752. The wife alone does not have any right to the social assets during the partnership, except in the cases stated in Article 145.</b></p> <p><b>Article 1753. Although the wife may, in the pre-nuptial agreement, renounce her own assets, as a result she shall not have the power to receive the income from her own assets, which are understood to be transferred to the husband to support the costs of the marriage, but with the obligation to retain and return said assets, as stated subsequently.</b></p> <p>The aforementioned shall be understood without prejudice to the rights of the woman who is divorced or separated in assets.</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><b>RECOMMENDATION:</b> Eliminate male privileges with regards to the administration of property in marriage.</p> </div>