

# COMPARATIVE ANALYSIS BETWEEN COLOMBIA AND ECUADOR OF THE CREATION AND IMPLEMENTATION OF THE REDUCTION OF THE MAXIMUM WORKING DAY

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**Abstract** -This article was prepared with the purpose of answering the following research question: How has the creation and implementation of the reduction of working hours been in the countries of Colombia and Ecuador? The research was carried out methodologically from the parameters of the interpretive paradigm, using a qualitative approach and using the methods of general hermeneutics and legal hermeneutics. The comparative study between these two countries revealed that, in general, the reduction of working hours turns out to be highly beneficial for both workers and employers. This is because it improves task performance, increases productivity, reduces work stress, and reduces absences and work-related illnesses. For workers, it also means more time for personal activities such as family, leisure, rest and study, which in turn allows greater concentration at work.

**Keywords:** working hours, reduction, implementation, creation.

## INTRODUCTION

This research consists of being able to understand in depth the most relevant effects that could be generated by the implementation of Law 2101 on the reduction of working hours in terms of productivity in Colombia, reducing it to a total of forty-two hours a week and establishing a comparison. with the consequences in Ecuador of a maximum working day of forty hours a week since 1980 through legislative decree 43 where the reduction of work from 44 to 40 hours a week occurred, and Saturdays and Sundays were declared for rest. forced.

The ILO and the OECD have suggested the reduction of working hours in member countries, recommending that companies should work 40 hours weeks, however, with the proposed reduction here in Colombia, we will continue to be one of the member countries with the most hours. weekly are worked, remembering that the 48-hour work day in Colombia was created by President Mario Ospina Pérez more than 70 years ago. Generating all these years a negative effect on the well-being of employees.

Without a doubt, the implementation of the reduction to 42 hours per week is coordinated under a precept of gradual implementation, in the context of business progress within a context of automation and application of technological tools in the productive organization, but all this without the existence no type of affectation on the rights already acquired by each of the employees, much less on their salaries.

This progressive reduction of the Colombian working day adds to the global trend of distribution of employees' available time, with the aim of increasing economic productivity in accordance with harmony in the family and work life of each employee.

Ecuador in Latin America has been one of the pioneering countries, along with Brazil, on the issue of managing the working day that is fair not only in terms of economic performance and the growth of companies and large industries in their countries, but also in valuing the hand of work, ensuring the health and good living of the working class, guaranteeing their rights as human beings to a life in fair and equal conditions for both the worker and their family or social circle.

Finally, this research aims to know the social impact to which employees in Ecuador have been exposed,

analyzing the four decades that this day has been implemented and the factors to which employees in Colombia will be exposed, being able to accurately describe whether the decrease in work hours is a good decision for both the business owner employer and the worker as a human being. Finally, it can be said that this article aims to study the arguments that support the law of reduction of working hours in Colombia and Ecuador. To achieve this objective, it was necessary to carry out the following activities:

- Indicate how it was created and the regulations that Ecuador used for the implementation of the reduction in working hours.
- Indicate how it was created and the regulations that Colombia used for the implementation of the reduction in working hours.
- Establish what have been the effects of the implementation of the reduction of working hours in Colombia and Ecuador.

## 1. Methodology

This reflection article is framed within the interpretive paradigm, which seeks to understand reality in a dynamic and diverse way, focusing on the meaning of human actions. Instead of measuring reality objectively, this approach is interested in the perception and interpretation of phenomena, as well as social practice and its meaningful understanding. The methodological framework adopted in this project is oriented towards the qualitative approach, which facilitates the understanding and contextualization of the problem investigated (Martínez et al. (2022).

To carry out this analysis, general hermeneutics will be used, a methodological tradition that allows theories to be interpreted and understood in a broad way. In addition, legal hermeneutics will be used, which is essential for the interpretation of jurisprudence, laws and other related regulations. This methodological combination will be fundamental to carry out a comparative analysis of the creation and implementation of the reduction of working hours in Colombia and Ecuador, allowing us to explore how these policies have been applied and how they affect the work contexts in both Latin American countries.

## 2. Results and discussion

The comparative analysis between Colombia and Ecuador on the creation and implementation of the reduction of the maximum working day offers an enriching vision of how this policy impacts diverse Latin American contexts. As both countries adopt approaches to optimizing work-life balance, this study explores the similarities and differences in their strategies and outcomes. By examining legislative developments and associated practices in each nation, this analysis seeks to unravel the implications of reduced working hours for both workers and employers, providing an understanding of how these reforms influence productivity, well-being and quality. of life in the workplace.

### 2.1. Comparative analysis between Colombia and Ecuador of the creation and implementation of the reduction of the maximum working day

#### 2.1.1. Legal arguments that support the working day in Ecuador.

Ecuador is the pioneer country in South America in implementing the shortest maximum working day in hours since 1980, working eight hours a day without exceeding 40 hours a week, as established in its labor code in article 47: Of the maximum day. - The maximum working day will be eight hours a day, so that it does not exceed forty hours a week, unless otherwise provided by law. (art 47/Law 2003-13).

To reach this limit on working hours, first there were changes and modifications that led to this instance, in the year 1916 in the month of September 1916, during the presidency of Doctor Alfredo Baquerizo Moreno, the First Workers' Law was disseminated, in This established a work day of eight hours a day and six days a week, which resulted in a forty-eight hour work week. What is currently the reality of most Latin American countries, including Colombia.

In 1934, on October 31, during the government of Dr. José María Velasco Ibarra, the weekly work day was reduced from 48 hours to 44 hours, and at the same time establishing that workers would have the

right to rest on Saturday afternoon, or any day of the week, and Sunday in its entirety. While Jaime Roldos Aguilera was president, on March 14, 1980, through legislative decree 43, he approved by presidential decree the reduction of work from 44 to 40 hours per week, declaring Saturdays and Sundays for forced rest.

For the workers it was a great achievement at work, for their moral and physical well-being, the fact of being able to rest on Saturday and Sunday, dedicate time to family, fun, necessary, sufficient and restorative rest, leisure or other religious activities was actually a great move forward, in order to start a new work week with more strength and better spirits and in the same way it means a reduction in illnesses caused by stress, occupational illnesses.

Rest is so sacred that there is a special prohibition for the employer to require the employee to do any work, except in cases where overtime is allowed. Article 55 of the Labor Code of Ecuador establishes remuneration for overtime worked, always and when these are established by agreement between the parties, taking into account that these may not exceed four in a day and nor twelve a week.

You can clearly see the value given to each hour worked as overtime for 42 years, which turns out to be greater than in our Country Colombia today, where the highest percentage is 75%, for that extra work or effort carried out by the worker. It is an example model to follow, decades of implementation have led to demonstrating that it is profitable from the point of view of the employer and worker.

### **2.1.2. Legal arguments that support the reduction of the working day in Colombia.**

It is not a secret that in search of guarantees and asserting their rights, workers have suffered and lost lives, which is why a transcendental mark was marked on the work day in history, and it is evident through each regulation the fight for a change of vision to see a worker as a person.

In the 20th century, the rights won by the workers' struggle improved the quality of life of all workers, and in this way we show that at the beginning of the current century there were great advances regarding the working day.

Decree 895 of 1934 establishes the maximum work day of eight hours a day and forty-eight hours a week for companies and large industries. In 1994, with the issuance of Decree 2350, some provisions on work conventions were issued, confirming the legal maximum of eight hours a day and forty-eight hours a week, but in addition to this it established that additional daytime work had an increase of twenty-five percent, and night and fifty percent surcharge.

The Substantive Labor Code is issued through Decree 2663 of 1950, and this confirms the working day that has been managed and specifies that daytime work is that between six in the morning and six in the afternoon. Night work is work between six at night and six in the morning.

Decree 2351 of 1965 makes some reforms to the substantive Labor Code specifying that Sundays and holidays would be remunerated with a value of one hundred percent of the salary earned, with the exception of those who work thirty-six hours and Law 6 of 1981, by which article 161 of the substantive labor code is modified, stipulates that for minors the maximum working day will be six hours.

In 2017, Law 1846 brought a novelty that night work is between nine at night and six in the morning and the mandatory rest must be on Sunday. And our origin of study is Law 2101 of 2021, which establishes a reduction in the working day, with a maximum duration of 42 hours per week, which may be distributed, by mutual agreement between employer and worker, in 5 or 6 days a week, the week, always guaranteeing the day of rest and earning the same salary.

### **2.2. Effects of the implementation of the reduction of working hours in Colombia and Ecuador.**

In Ecuador in 1935 the ILO approved convention number 47 where it recommended a maximum legal working day of 40 hours a week, and it was not until 1980 when Ecuador had ended an anti-popular military dictatorship that it was decided to abide by the ILO recommendations. Forty-two years later, the results, far from affecting the economy of companies and the country, brought innumerable benefits, increased productivity, improved attitudes, motivation and reduced absenteeism.

In an article in the magazine *Gestión Digital*, Sánchez (2016) highlighted the labor advantages associated with the reduction of working hours in the Concel company. According to the story, employees are happier and customers are more satisfied; More employment opportunities are generated, productivity and concentration at work increase, and the level of stress among employees decreases.



The proposal to redistribute the forty work weeks into six days, so that less than 8 hours a day is worked on average, has been well received and maintained over the years due to its success. According to Monesterolo (2013), in his article Long working hours and their repercussions on the good life of the worker and his family, the possibility of adjusting this distribution is being studied, suggesting that Saturday work be paid only at 25% of the surcharge. usual instead of 100%. This measure, according to the author, could ensure a decent life for workers by promoting a balance between work, rest, leisure and health, thus facilitating the reconciliation between work and personal life.

This idea, proposed nine years ago, was not approved by the Congress of said country since they considered that it was more important to have a day off than to reduce one hour of daily work, thus respecting Saturdays and Sundays, allocating them to rest from work. worker, an option that is successful to this day, which has reduced the level of diseases due to common and occupational origin, considerably the stress that is the cause of many diseases in the 21st century, and companies have saved considerably on infrastructure costs.

In Colombia, with the approval of Law 2001 of 2021, Colombians will be governed by a maximum working day of 42 hours a week, distributed over 6 days, which is an advance in terms of working conditions in Colombia, it would bring great advantages to level of productivity, since employees would be less exhausted from an extensive 48-hour workday, and with less concern about the time dedicated to their loved ones, or in the case of parents with minor children, or workers with dependents.

The family is the fundamental axis of society, the most important social organization for human beings, and belonging to it is vital in the social and psychological development of the individual. Colombia in the Magna Carta in its article 42 tells us about this as the core of society, which is created through natural or legal ties, through the free will of human beings and it is the state that is responsible for protecting and safeguarding. family rights.

This is why the peace of mind of being able to distribute your time in a reasonable manner, between working to earn your living and dedicating time to your complementary activities, whether devoting time to family, recreation, religion, practicing a sport, leisure, is beneficial in the sense in which when you are carrying out the functions of your position you will be concentrated, requests for leave are reduced, stress is less, since you have a respectable amount of time for a good life and distribution.

## CONCLUSIONS


The quality of life of individuals depends largely on the satisfaction they have with each activity, responsibility or aspect of their daily life, family and work are key since these are present in daily life and achieve a space to develop our duties in each of them will influence the willingness to develop each task that is entrusted in the functions that the position requires.

It is attractive and promising to see that the world has evolved in identifying the factors that influence the balance of work and family and the need to modify the number of working hours thinking about the well-being of workers and that these directly influence the production directly, this is why the organizations in charge of creating laws must take this aspect into account so that each day they can progressively advance so that well-being is not only about producing but also about the mental health of employees.

It is a challenge for the State as guarantor to create public policies and regulations that effectively protect and give the worker the space to develop their role as a member of a family group, which is why when introducing the law on reducing working hours in our country, later we will be able to show how beneficial it was and the need to continue advancing on this issue so that this protective state can be seen, a guarantor that is always thinking about the general interest of the entire society.

Without a doubt, the tranquility of the employee at a family and social level, the time dedicated to leisure, to the practice of a religion, sport, rest is essential when it comes to his work performance, his mood would be elevated and he would be able to perform his duties with more enthusiasm, at the level of employers the advantages are without a doubt, being able to grow their profits derived from the high performance of their employees and reduce the problem of occupational diseases, is a plus that is beneficial on both sides.

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