

11

RESIGNATION WITHOUT FORMALITIES IN THE ECUADORIAN LABOR MARKET: LEGAL IMPLICATIONS FOR THE PROTECTION OF STABILITY AND WORKER RIGHTS



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FORMALITIES IN THE ECUADORIAN LABOR MARKET: LEGAL IMPLICATIONS FOR THE PROTECTION OF STABILITY AND WORKER RIGHTS

RENUNCIA SIN FORMALIDADES EN EL ÁMBITO LABORAL ECUATORIANO: IMPLICACIONES JURÍDICAS PARA LA PROTECCIÓN DE LA ESTABILIDAD Y LOS DERECHOS DEL TRABAJADOR

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ABSTRACT

The practice of accepting employee resignations without adhering to formal procedures poses a direct threat to legal certainty and the effective protection of workers' rights in Ecuador. Such informality, often driven by employer pressure or legal ignorance, leaves workers vulnerable, limiting their ability to later claim labor benefits and undermining principles such as employment stability, informed consent, and due process. The absence of clear regulation and institutional oversight contributes to the normalization of these practices, weakening the labor relations framework. It is imperative to establish stricter regulatory guidelines and control mechanisms that ensure the authenticity of resignations, safeguard the worker's will, and promote transparency in the termination of employment relationships.

Keywords:

Labor resignation, workers' rights, formality, stability, Ecuadorian legislation.

RESUMEN

La práctica de aceptar renuncias laborales sin el cumplimiento de procedimientos formales constituye una amenaza directa a la seguridad jurídica y a la protección efectiva de los derechos de los trabajadores en Ecuador. Esta informalidad, muchas veces impulsada por presiones del empleador o por desconocimiento del marco legal, deja a los trabajadores en una situación de indefensión, dificultando la reclamación posterior de beneficios laborales y vulnerando principios como la estabilidad en el empleo, el consentimiento libre e informado y el debido proceso. La falta de regulación clara o de mecanismos de verificación institucional contribuye a la normalización de estas prácticas, debilitando el sistema de relaciones laborales. Urge establecer lineamientos normativos más rigurosos y mecanismos de control que garanticen la autenticidad de las renuncias, protejan la voluntad del trabajador y fortalezcan la transparencia en la terminación del vínculo laboral.

Palabras clave:

Renuncia laboral, derechos del trabajador, formalidad, estabilidad, legislación ecuatoriana.

INTRODUCTION

The Royal Spanish Academy defines resignation as: “Voluntary resignation or relinquishment of something that one possesses, or of the right to it” (Royal Spanish Academy, 2025) and resignation as “the voluntary decision of an employee to end his or her employment relationship with a company.”

We can highlight in both concepts the word “voluntary”, that is, it is born from personal will without any intervention of force, coercion or coercion (Detell, 2024; López, 2023), that is, it must be free of any vice of consent that affects it, however, this voluntary decision in many is not subject to the simple and sole will of the worker, in this context the following question arises: Does the absence of an adequate procedure for generating the worker's resignation violate job stability?

In the labor field, stability and the protection of workers' rights are fundamental principles. However, the illegal practice of forcing employees to sign blank documents upon hiring, only to later use them to simulate a resignation and avoid compensation for wrongful termination, seriously violates these principles, which seek to protect workers from unjustified dismissals and ensure continued employment.

Likewise, Congacha (2020) defines resignation in labor matters as the decision by which a person voluntarily separates from his or her usual work environment and therefore from his or her employer, which is carried out by means of a written notification with a certain period of time in order to be able to carry out all the corresponding settlements, upon the worker's departure from his or her usual workplace, taking into account that this action is carried out voluntarily.

At the global level, the International Labour Organization (1982) has issued the C158 - Termination of Employment Convention, 1982 (No. 158), which seeks to ensure that the worker is not removed from his or her work activities unfairly as determined by Article 4:

“A worker's employment relationship shall not be terminated unless there is a justified reason for doing so related to his or her ability or conduct or based on the operational needs of the company, establishment, or service.”

Also in SECTION B. regarding PROCEDURES PRIOR TO OR AT THE TIME OF TERMINATION, Article 7 establishes that:

“A worker's employment shall not be terminated for reasons relating to his conduct or performance before he has been given an opportunity to defend himself against the charges brought against him, unless the employer cannot reasonably be required to provide such an opportunity” (International Labour Organization, 1982).

Although this agreement focuses on dismissal by the employer, it underscores the importance of clear procedures for terminating an employment relationship, which can be extended to the need for defined protocols for voluntary employee resignation.

In Latin America, various legislations recognize the importance of formal procedures in the termination of employment contracts. For example, in Colombia, the Supreme Court of Justice has indicated that resignation must be a free and voluntary manifestation of the employee, and that any defect in consent, such as coercion or deception, may invalidate said resignation. This analysis was carried out in process No. 90116 of the Labor Cassation Chamber dated May 10, 2023. (Colombia. Supreme Court of Justice, 2023)

In many countries, especially those with weak labor laws or a lack of effective oversight, some employers have adopted abusive practices to avoid their legal responsibilities in the event of dismissal, such as the aforementioned practice of signing on a blank sheet of paper.

In the Ecuadorian context, the Labor Code also protects and highlights the fundamental principle of job stability and as a guarantee of this establishes compensation for unfair dismissal, when there is no justified reason that is found within Chapter IX OF THE TERMINATION OF THE EMPLOYMENT CONTRACT, in Art. 169 “Causes for the termination of the individual contract”, Art. 172 “Causes for which the employer can terminate the contract”, and Art. 173 “Causes for which the worker can terminate the contract” (Ecuador. National Congress, 2005).

However, within this there is no adequate procedure that can regulate the date on which the resignation letter document is issued or signed, this legal loophole is exploited by a large part of employers - not only nationally, but also Latin American and globally -, convincing workers to sign blank sheets that are later used to simulate a voluntary resignation of the worker, thus avoiding the payment of corresponding compensations, since said values vary depending on the worker's employment situation, being calculated based on: working time - start and end date of the employment relationship - and last best remuneration - according to the latest resolution of the CNJ N°02-2025-.

Likewise, in Ecuador, the Ombudsman's Office warns about the types of documents that should not be signed, such as: blank documents, involuntary resignations, settlement agreements, payment slips with amounts not actually received, and employment contracts that do not establish the reality of the employment relationship (Defensoría Pública Ecuador). These types of documents cannot be signed without full knowledge of the content or under any threat.

These practices have a serious impact on workers, who lose their rights to compensation and legal protections and are generally afraid to report complaints due to potential

retaliation, poor economic conditions, and because it can be difficult to prove coercion.

These abuses, as explained above, are not limited to a single country, but to several countries worldwide, such as Colombia, Mexico, India, and Bangladesh, particularly in sectors with high job insecurity. The lack of these specific regulations and weak government oversight make it easy for these practices to go unpunished. The absence of adequate procedures for formalizing employee resignation can violate the principles of stability and protection of workers' rights, generating uncertainty and potential abuses in the employment relationship.

MATERIALS AND METHODS

The research methodology employed in this study is qualitative in nature, as it allows for an in-depth and contextualized exploration of the complex problem of the lack of an adequate procedure for formalizing a worker's voluntary resignation, as well as its direct impact on job security. This methodology facilitates a detailed analysis of subjective, normative, and social elements linked to the abuse of certain contractual mechanisms, such as the requirement for blank signatures, which affect the full exercise of labor rights. The aim is to understand the perceptions, experiences, and criteria of legal experts regarding this phenomenon in order to generate well-founded regulatory proposals aimed at protecting workers.

The design adopted is descriptive, as it allows for the identification, analysis, and systematization of the main characteristics of the problem under study. Through the analysis of qualitative data obtained through survey techniques, the aim is to rigorously describe the phenomenon of the misuse of blank signatures and its impact on forced labor termination. This design is ideal for exposing the various forms in which this practice occurs and proposing viable legal and procedural solutions that contribute to ensuring legal security in the workplace.

The methods used in the research are:

- Analysis and synthesis method: This method will be applied to examine, decompose, and interpret the theoretical and empirical information collected on the violation of labor rights through practices such as the advance signing of resignation documents. Through this process, the most relevant findings will be systematized and integrated into comprehensive conclusions that guide proposals for reform or legal action.
- Induction-deduction method: This method will allow for the identification, based on specific observations, of the causes and effects of simulated job resignations. Subsequently, through deduction, generalizations will be structured to explain the phenomenon in its entirety, which will contribute to supporting proposed solutions

based on the current regulatory framework and observed forensic practice.

Data collection was carried out using a survey technique, specifically targeting a sample of 97 legal professionals registered with the Lawyers' Forum of the province of Tungurahua. The objective of this technique is to gather their perceptions, experiences, and assessments regarding the existence and legal consequences of requiring blank signatures before the formal start of an employment relationship, as well as its impact on workers' job security.

The instrument used was a structured electronic questionnaire, composed of open- and closed-ended questions that will allow for the collection of accurate, verifiable, and relevant information. The digital format will facilitate access to a broader sample and ensure efficient data systematization. This information will constitute the empirical basis for interpreting the results and formulating specific legal recommendations that address the identified issues.

RESULTS AND DISCUSSION

The results of this research are directly aligned with the objective of this study, which was to identify whether the lack of formal procedures for resignation from work affects workers' stability and rights by gathering the perceptions and experiences of legal professionals. This is intended to generate proposals for improving the regulation and protection of workers in the face of this problem. To this end, a survey was applied to 97 legal professionals registered with the Lawyers' Forum of the province of Tungurahua.

According to Table 1, 90% of respondents believe that some employers currently abuse the lack of regulation in generating resignations from work, forcing workers to sign blank documents before and/or during the employment relationship, which shows widespread concern about this practice. However, only 10% believe that this does not represent a problem, indicating that the perception of abuse is widely recognized by the professionals surveyed.

Table 1. Abuse regarding the signature of resignation with a blank date.

Category	Frequency	Percentage
Yeah	87	90%
No	10	10%
Total	97	100%

The majority of respondents, 82%, agree that the lack of a formal resignation procedure negatively affects workers' job security. On the other hand, 17.53% do not consider this to be a serious problem, suggesting that there are still sectors that believe that job security does not necessarily depend on this procedure (Figure 1).

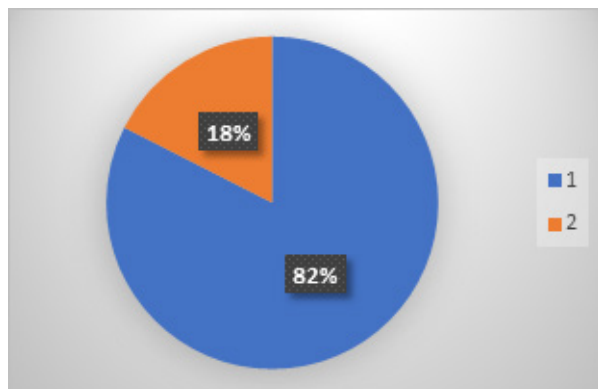


Figure 1. Violation of the right to job stability due to lack of procedure.

81% of respondents are in favor of implementing digital mechanisms, in this case the online form on the Ministry of Labor's website, to formalize resignations, thus avoiding employer abuse; 18.56% of respondents do not believe this option is viable. The results of the survey demonstrate a clear need to establish adequate procedures for generating resignations, given that, as can be seen in Figure 1, the majority of legal professionals agree that the lack of these procedures allows employers to abuse workers before or during the employment relationship. This is also reflected in Figure 2, as they believe that these bad practices affect job stability due to the loss of compensation rights and legal protection. Therefore, in Figure 2, there is majority support for the implementation of an online form on the Ministry of Labor's website to formalize resignations.

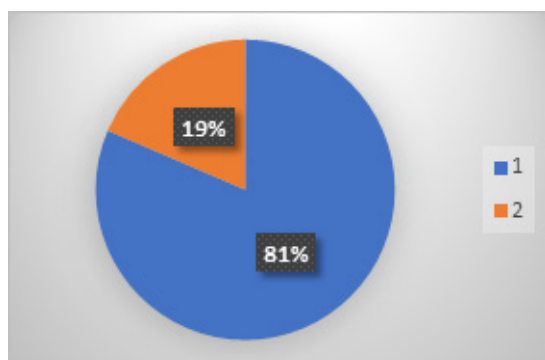


Figure 2. Implementation of an online form for job resignation.

According to the data collected and analyzed from the survey of 97 legal professionals registered with the Lawyers' Forum of the province of Tungurahua, there is clear concern about abusive practices in the formalization, or rather, simulation, of resignation. In the first question, 89.69% of respondents considered that signing a blank document, exerting coercion or duress on workers to simulate resignation, is a mechanism susceptible to being used by employers in most cases, leading to abuse before or during the employment relationship, demonstrating a clear violation of workers' rights. This high percentage demonstrates

the widespread nature of these abusive practices, which take advantage of those desperately seeking a source of income to support their families and cover at least their basic needs, at least when they are hired. This creates inequalities or imbalances in the employment relationship with their employer, leaving them vulnerable due to the manipulability of the timing and content of documents, both to disguise the unfair dismissal as a resignation, and to arrange a subsequent hiring with a date different from the actual start date of the employment relationship.

On the other hand, 82.47% of respondents are convinced that the lack of adequate formal procedures for creating specific job resignations violates the right to job stability. This indicates concern about the protection of workers' rights, since the lack of a specific procedure makes it difficult to guarantee that resignations are voluntary and not forced (before or during the employment relationship), since it is a strategy used to avoid legal liability of employers that directly harms the legal and economic security of workers.

Finally, the proposal to formalize employment terminations with a digital resource, supported by 81.44% of respondents, since if implemented, the resignation form would be completed on the same platform, with the date of its creation and printing, to minimize the practice of blank signatures, guaranteeing the protection of workers' rights, job stability, and avoiding irregularities during the resignation process. This demonstrates a trend toward digitalization as a tool to increase transparency and security in resignation processes. While a minority (18.56%) is skeptical of this option, the broader trend highlights the need to formalize and modernize the resignation process to effectively protect workers' rights.

The results of this research can be compared with the various approaches in which this problem has been addressed, in different research works all directed towards a legal reform of the Labor Code.

Bossano Basantes (2015) states that *the Labor Code does not contain provisions that declare the nullity of a resignation submitted by an employee when it has been forged by the employer when he has had the employee sign a blank document which is then presented as a resignation by the employee*; and concludes by saying that: *"Resignation as a means of terminating an employment relationship is legal and accepted, but if such resignation contains defects in consent such as lack of will, deceit and force, such resignation is null and must be rejected by the labor authorities"*.

In this document, it proposes a solution to the legal problems arising from signing on blank sheets and the possible solutions, but it does not establish a mechanism to protect the worker against this bad practice or how to prevent it from happening.

Likewise, Duque Ortega (2023) in his research exposes the need to reform art. 169 of the Labor Code, adding that: "Voluntary Resignation" is a unilateral and voluntary expression of the worker and that under no circumstances can it be framed as an agreement of parties since it does not meet the requirements of an agreement, because it is the will of only one party and this must be protected so that there is no doubt that it was prepared and reflects the real will of a worker, that for the termination of the employment relationship arising from a letter of resignation from the worker to his place and job to be valid, it must be registered with the competent labor authority that certifies its authenticity, corroborating that this decision is expressly the will of the worker and not accepting any voluntary resignation from the employer.

In the author's words: *"This cause would give legal value to voluntary resignation and there would be no need to want to frame it in an agreement between the parties, when it is not, and in turn, the simulation of resignation letters signed on a blank sheet of paper would be eliminated, at the beginning of the employment relationship with the employment contract, through deception, threats, pressure or any other type of vices of consent that seriously affect the rights of the worker."* (pág. 57)

We can see that the problem of the absence of formal procedures for resignation from work and the practice of demanding blank signatures from workers is not exclusive to our country, several countries have implemented measures to protect labor rights and prevent abuses by employers, specifically in Panama, the Ministry of Labor and Labor Development (MITRADEL), has innovated in terms of the registration of resignation letters, and today this procedure is carried out in an online system, on its page we can find that the request for registration of a resignation letter is done virtually, through the platform www.panamadigital.gob.pa and a profile must be created on the platform and then select the procedure for Request for Registration of the Worker's Resignation Letter, and this is free, this procedure consists of:

- Receive requests for resignation letters from employees of private companies.
- Once stamped, the applicant receives the resignation letter via email registered on the Panama Digital platform.

This process ensures that the resignation is voluntary and properly recorded, providing an additional layer of security for both the employee and the employer.

CONCLUSIONS

When analyzing the problem of the lack of formal procedures for resigning from work, a direct violation of the principles of stability and legal security for workers in Ecuador is observed. The practice of requiring the signature of blank resignation letters, although illegal, continues to be

used as a means of coercion by some employers, violating workers' right to work and constitutional guarantees.

It is important that the Ecuadorian legal system creates more effective mechanisms to avoid these abuses and guarantee that the worker's will to terminate the employment relationship is free and spontaneous. The possible introduction of a digital system, as occurs in other legal systems, could be a viable solution, offering transparency and security in these processes, given that, as mentioned in the case of this implementation of this mechanism, the resignation document would be completed on the same platform, with the date of its generation and printing, thus minimizing practices by avoiding irregularities during the generation of the resignation.

In this context, it is necessary to strengthen labor legislation and its effective enforcement, promoting greater oversight, ensuring a fair and clear procedure for terminating employment contracts that not only protects individuals' rights but also contributes to fairer working conditions. Legal education for workers must also be encouraged so that they know their rights and can exercise them without fear of retaliation.

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