



# **Targeted Surveys on application of core labour standards Mexico**

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**EUROPEAN COMMISSION**

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## **Mexico**

Directorate-General for Employment, Social Affairs and Inclusion  
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# Targeted Surveys on application of core labour standards, Mexico

This report has been developed to provide a picture of the application of core labour standards in Mexico. The report is based on a combination of desk research and stakeholder interviews. The assessments of the issues covered in the report are based on the views of credible international organisations, national governments, employer organisations, trade unions, experts and other stakeholders.

## Progress

- Legislation regarding conflict resolution and the registration of unions and collective bargaining agreements
- Legislation on minimum working age
- Lower child labour rates
- Ratification of ILO C098

## Challenges

- Confidence in the labour inspectorate and the judiciary to effectively, independently and transparently exercise their duties
- Anti-union discrimination and use of employer-controlled unions
- Discrimination (gender, indigenous identity & others) especially gender wage gap
- Efficacy & efficiency of inspections

## Key context

Mexico's social, political and economic context is affected by lack of trust in democratic institutions, and a widely-held perception that corruption is widespread in the country. This, combined with a climate of political and economic uncertainty and high levels of societal violence, represent potential challenges to the application of core labour standards in the country.

Elections held on 1 July 2018 saw the election of Andrés Manuel López Obrador. During the campaign, López Obrador signalled towards a more protectionist economy, while also defending the North-American Free Trade Agreement (NAFTA). He has also promised to take power away from big business, protect union leaders and increase workers' wages. Alongside López Obrador's victory his party, Morena, and its supporting coalition gained control over both houses of Congress. This majority should allow them to pass legislative changes without difficulties. However, in practice, it is unclear whether the elected coalition will be voting in unison.

Uncertainty related to the July 2018 elections and the renegotiation of NAFTA have slowed down the growth of the Mexican economy in the first half of 2018. High levels of poverty and labour market informality are also a source of concern. In October, Canada, Mexico and the US appeared to reach a new trade agreement, which is likely to be signed by the end of November. The text of this agreement contains commitments from the parties on labour issues, including providing for legislation and practice that ensure acceptable conditions of work and the right to freedom of association.

## **Freedom of association and collective bargaining**

In 2017 Mexico passed a constitutional labour reform which introduced substantial changes regarding freedom of association and collective bargaining. First, the reform dissolves the Conciliation and Arbitration Boards (CAB), whose functions will be transferred to local judicial entities. Second, the reform also requires verification of workers' support prior to the registration of collective bargaining agreements (CBA) and creates an independent entity for the registration of both unions and CBAs. These changes come as an attempt to further guarantee the independence and representativeness of the trade union formation process and collective bargaining negotiations, which are issues of major concern in the country.

Although these reforms have generally been positively received, the proposed implementing legislation has been criticised by trade unions, academics and civil society as limiting the reform's reach and being favourable to union representatives supporting the government. As of October 2018, the reform has yet to be implemented by regulating legislation, despite the fact that the legally-mandated period for bringing the legislation into effect has now passed. The decision to ratify Convention 98 by the Mexican Senate in September 2018 and provisions in the new trade agreement between Canada, Mexico and the US which contains provisions committing Mexico to passing legislation to ensure freedom of association, may accelerate the reform's implementation. It is not known whether Congressional consideration of implementing legislation will be delayed until 1 December 2018 when López Obrador takes office.

National stakeholders and international observers note several issues that are nonetheless not addressed with regard to freedom of association and collective bargaining in practice. A significant stakeholder concern relates to the alleged existence of employer-dominated unions (also known as 'ghost unions'), which have been created to thwart genuine trade union formation and bargaining. Trade unions and civil society organisations also identify the politicisation of the trade union registration process – through the creation of undue obstacles for registration of independent unions – as a major issue. Trade unions further report retaliation against workers who seek to form independent unions, including through dismissals and blacklisting. International observers have also expressed concern over the excessive legal requirements which need to be complied with in order to call a strike.

There are also conflicting reports of violence (including deadly violence) against striking union members, which have been allegedly perpetrated by state forces, private security forces, and other unions.

## **Forced labour**

While Mexico's legislation regarding forced labour is considered to be broadly aligned with international standards, civil society organisations and international observers report significant concerns over enforcement efforts and the allocation of resources to combat the practice, as well as over the high number of identified victims. Conditions that may amount to forced labour are reported as particularly present in the agricultural sector, where demand for foreign and indigenous day labour is high. There have also been anecdotal, yet consistent, reports of mass disappearances of migrant workers in the past, with concerns that they have been taken against their will for the purpose of forced labour.

Despite government efforts to fight trafficking in persons, the eradication of forced labour remains a challenge in Mexico. Key constraints reported by civil society organisations and international observers include a lack of harmonised understanding of the concept of forced labour amongst authorities, lack of effective inspection efforts and limited resources dedicated to combating the practice. Corruption and complicity of public officials in forced labour and trafficking offences are also a concern.

## **Child labour**

Mexico's legislation regarding child labour is considered to be broadly in line with international labour standards, particularly after the country raised the minimum working age to 15 in order to ratify C138. In practice, child labour remains highly prevalent. According to the latest child labour survey conducted by Mexico's statistics institute (INEGI), 3.2 million minors were engaged in child labour in Mexico in 2017 (11% of the population aged 5 to 17). According to INEGI's 2017 survey, almost 40% do not have the minimum age to work, and over 60% partake in dangerous activities (INEGI MTI, 2017). Child labour is most prevalent in the agricultural sector, but it is also reported in the services, commerce, construction and mining industries, as well as in brickyards.

The worst forms of child labour are also a concern in Mexico. International observers have noted that criminal organisations recruit children. Government estimates indicate that 21,000 minors are captured by trafficking networks in Mexico every year.

The government has reported a decrease in child labour rates in recent years, which it attributed to the raise in the minimum working age, and increased inspection efforts. Employer organisations have attributed this improvement to the influence of international companies' demands for child labour-free supply chains. Nonetheless, enduring constraints to the complete eradication of child labour in Mexico include ineffective inspections, societal attitudes towards child labour and the families of working children, and a lack of effective measures to combat the root causes of child labour.

## **Discrimination**

Mexico is generally regarded as having a comprehensive legal framework regarding employment discrimination. However, civil society organisations and international observers detect the presence of discrimination in the workforce, particularly against women, but also based on sexual orientation, disabilities, indigenous identity and socio-economic status.

While the number of women in the Mexican workforce is increasing, Mexico still has the third largest gender wage gap and one of the lowest female labour force participation rates in the OECD. According to the World Economic Forum, Mexico's gender wage gap has been widening in recent years. Other concerns include the fact that many women workers are employed in the informal economy and underrepresented in decision-making roles. Pregnancy-related discrimination and sexual harassment are also deemed significant issues by local civil society organisations and international observers.


Persons with disabilities and indigenous workers also face significant challenges in accessing decent employment without discrimination in Mexico, as evidenced by large wage gaps between them and the rest of the working population.

## Status of ratification and reporting

Mexico has ratified all eight ILO fundamental (core) conventions. In September 2018, Mexico ratified ILO Convention 98, following long-lasting pressure from trade unions, civil society organisations and international trade partners. Now Mexico needs to implement the changes in law and practice that will align the country's current labour situation with international standards. Mexico is not party to two of the governance (priority) conventions, C81 and C129 (Labour Inspection and Labour Inspection in Agriculture).

		<b>Application issues - latest ILO CEACR observations and direct requests on core conventions</b>
<b>Freedom of association &amp; collective bargaining</b>	C87	(2018): Noted with concern continued allegations of the use of protection contracts in the country, and lack of information on proposed amendments to address it. Noted allegations of violence against unionised workers, including deadly violence. Noted that foreign workers are prohibited from being union leaders and that public servants have limited rights to freedom of association. Noted allegations of independent trade union registration being denied. Noted with satisfaction changes brought by the reform to labour justice, vesting competence to federal and local courts, making the conciliatory process more flexible and effective, and decentralising the conciliation body.  (2018): Noted the requirement for union leaders to be accredited by the government as proof of their fair election, and that branch unions are not permitted to represent workers from other branches in different industries. Also noted that certain public servants and essential personnel are restricted from striking or have additional requirements to do so.
	C98	<i>Decision to ratify passed by the Senate in September 2018.</i>
<b>Forced Labour</b>	C29	(2016): Noted the low number of convictions for human trafficking crimes, and allegations of corruption and complicity by public officials.
	C105	<i>No recent comments.</i>
<b>Child labour</b>	C138	Mexico ratified C138 in 2015 and was requested to make its first report in 2017. The ILO CEACR repeated this request in 2018, since the first report was not received.
	C182	(2016): Noted the low number of convictions for sexual exploitation of minors and for officials accused of complicity.
<b>Discrimination</b>	C100	(2017): The definition of "equal pay for equal work" contained in Mexican law falls short of C100's definition of "equal pay for work of equal value". Noted the absence of objective evaluation methods to determine equal value.
	C111	(2017): Requested Mexico modify its conciliatory methods for complaints of discrimination, given their low success rate.  (2017): Noted that the labour law does not expressly protect against discrimination based on race, colour, national extraction, social origin and political opinion. Redress mechanisms for sexual harassment end





with the termination of the employment relationship (albeit with compensation), raising concerns that this remedy could be used as a penalty against the victim and dissuade complaints.

## References

ILO CEACR, [Observations and Direct Requests for Mexico](#).

Instituto Nacional de Estadística y Geografía, Módulo de Trabajo Infantil (INEGI MTI), 2017, [Principales Resultados](#).