

Shadow Report On the Situation of Domestic Workers in Mexico

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In Mexico, there are 2.4 million domestic workers; of this total, 95% are women, indicating that one out of every ten economically active women in Mexico is employed as a domestic worker. Of these women, about 80% have children, 20% are single mothers, and an estimated 11% are indigenous.

Regarding their working conditions, the National Occupation and Employment Survey (ENOE, 2017) showed that 75% of domestic workers earns less than two-times the minimum wage, 97% do not have access to employer-provided health benefits, only 25% receive a Christmas bonus, and less than 10% are given paid time off. Additionally, 30% report not having rest breaks during their workday (CONAPRED, 2015).

In Mexico, the Federal Labor Act and the Social Security Act explicitly exclude domestic workers from accessing the same labor rights as other workers.

- Chapter XIII of the Federal Labor Act (*Ley Federal del Trabajo* - LFT) regulates the labor rights of domestic workers under a special structure that places them in a separate and disadvantaged position in comparison to the rest of the Mexican workforce. The chapter does not include any provisions regarding occupational safety, hygiene, risks, or accidents, does not require the employment relationship to be regulated through a signed contract, does not provide guidance regarding legally mandated rest breaks, and does not explicitly establish maximum shift durations, thus making a workday of 12 hours legal through omission.
- The Social Security Act (*Ley del Seguro Social* - LSS) restricts domestic workers to voluntary affiliation with the social security system, excluding them from the compulsory affiliation to which the rest of the Mexican workforce is entitled. This structure explicitly denies domestic workers access to social security benefits such as daycare and other social benefits that provide significant upsides for the sector.

The content of both Acts regarding domestic labor issues contravenes Article 1 and Article 123, Section A of the Mexican Constitution. Article 123, Section A recognizes domestic workers' full labor rights and their right to access social security, while Article 1 establishes the Constitutional hierarchy of international human rights treaties that have been signed by Mexico regarding equality and non-discrimination.

Technical progress made by the Mexican state:

- In 2014, the federal government publicly promised to send ILO Convention 189 (C189) on Decent Work for Domestic Workers to the Senate for ratification. However, this has not yet happened in the intervening years, despite constant pressure from civil society.
- The Ministry of Labor and Social Welfare (*Secretaría de Trabajo y Previsión Social* - STPS) has prepared a roadmap for the ratification and implementation of C189 and Recommendation 201 (R201). To comply with this roadmap, an intergovernmental group was convened to ratify the Convention (SEGOB, STPS, CONAPRED, INMUJERES, CNDH, IMSS), however this group has not yet produced clear results.

- In February 2017, the STPS developed a proposed mechanism to push the implementation of the content of ILO C189, proposing the creation of a Special Structure to Ensure Domestic Workers through an Executive Order. This proposal is progressive, initially covering only a limited percentage of workers that meet certain requirements in an effort to allow institutions to develop mechanisms that are appropriate to the needs of this sector.
- Additionally, according to the 2017 and 2018 Federal Expenditure Budget, the STPS was allocated a budget of MXN \$4 million (USD \$2 million)¹ to implement actions that promote compliance with C189, as well as a national promotional campaign to disseminate information on the rights of domestic workers. To date, no such campaign has been implemented, and the actions that have been implemented by the STPS have not led to any concrete progress towards ratification, nor towards increasing the guarantee of workers' rights.

Therefore, as representatives of Mexican civil society, we argue that the **delay in ratification is not the result of technical issues, but is instead an issue of political will.** To date, sufficient evidence has been generated regarding the feasibility of guaranteeing these rights in Mexico, and various proposals have been drafted to put the provisions of the Convention into practice. However, the **Mexican state** continues to argue that it is unable to ratify the Convention due to insufficient budget and financial non-viability, arguments that are primarily put forth by the Mexican Institute of Social Security (*Instituto Mexicano del Seguro Social* - IMSS) and the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público* - SHCP), **which refuse to reallocate their budgets to benefit domestic workers.**

Legislative harmonization:

- During the current presidential administration's six-year term, including the current and previous legislative sessions, senators representing all of the political parties have made more than 12 requests to the executive branch to send the Convention for ratification.
- At least 12 legal reform initiatives have been presented (five from representatives and seven from senators) to totally and/or partially harmonize Mexican legislation with the C189. To date, **not a single legislative initiative has progressed.**

The following international recommendations have been made to the Mexican government to ratify C189:

- 2012: CEDAW Committee
- 2013: Universal Periodic Review Working Group
- 2018: UN Committee on Economic, Social and Cultural Rights

It should be noted that Mexico has not ratified an ILO Technical Convention in 16 years, and that not a single Convention on Human Rights has been ratified during the current administration.

The *List of issues and questions in relation to the ninth periodic report of Mexico* (CEDAW/C/MEX/Q/9, paragraph 16) specifically asks about the measures taken to resolve the precarious situation faced by female domestic workers and ensure that such workers have equal

¹ 2017: http://www.pef.hacienda.gob.mx/work/models/PEF2017/docs/tomo_1/tomo_1_agev.pdf ;
2018: http://www.ppef.hacienda.gob.mx/work/models/PPEF2018/docs/tomo_1/tomo_1_agev.pdf

labor rights and benefits. The Mexican state failed to adequately respond with specific advances to guarantee the rights of the sector (CEDAW/C/MEX/Q/9/Add.1, paragraphs 137-139).

The Committee could reiterate its previous recommendation to the State party (CEDAW/C/MEX/CO/7-8, paragraph 29) that the state ratify Convention No. 189 concerning decent work for domestic workers and formulate a comprehensive policy that ensures domestic workers equal access to their rights.

References:

- Condiciones Laborales de las Trabajadoras Domésticas. Estudio cuantitativo con empleadoras y trabajadoras. CONAPRED, 2015. http://www.conapred.org.mx/userfiles/files/TH_completo_FINAL_INACCSS.pdf
- Inspección Laboral. Serie: Derechos laborales de las trabajadoras del hogar en México. OIT, ONU Mujeres, ILSB. México, 2017. http://ilsb.org.mx/wp-content/uploads/2016/03/Policy-Inspeccion_C.pdf