

Rights of women paid domestic workers in the Americas:

Progress and persistent gaps



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Policy Brief: Mexico

This Policy Brief is based on the hemispheric report “Rights of women paid domestic workers in the Americas: Progress and persistent gaps,”¹ prepared between 2020 and 2021 by the Inter-American Commission of Women (CIM) of the Organization of American States (OAS) in collaboration and within the framework of a project of the Pan American Development Foundation (PADF). The text of the Policy Brief was consulted with a Group of Experts (March 2022) and with a Group Authorities from the Government of Mexico (February 2023).

Paid domestic work in Mexico occupies 10.1% of the economically active population (EAP) of women (ILO, 2018), equivalent to around 2.3 million people, 88% are women.² Until 2018, the restrictions on their labor rights were established in the federal legislation itself. Between that year and 2019, key legal advances were made, spurred primarily by organizations of paid domestic workers, supported by the national gender and labor institutions, organizations of the feminist and broader women’s movement, and various international entities.

At the same time, the COVID-19 pandemic had a decisive impact on domestic work, which was one of the sectors most affected by unemployment, both in Mexico and in the region. According to the ILO,³ although in recent months the employment of women has recovered more quickly than that of men, domestic work continues to be one of the least dynamic sectors with a recovery that is much lower than average.

1 CIM/PADF (2022). Rights of women paid domestic workers in the Americas: Progress and persistent gaps <https://www.oas.org/es/cim/docs/Derechos-TDH-EN.pdf>

2 Information provided by the Government of Mexico for this study based on INEGI data from 2021, National Occupation and Employment Survey, Fourth Quarter of 2021, https://www.inegi.org.mx/contenidos/programas/enoe/15ymas/doc/enoe_n_notas_tecnicas_trim4_2021.pdf (in Spanish only)

3 ILO (2022). Labour Overview 2022 for Latin America and the Caribbean, p. 15, https://www.ilo.org/caribbean/newsroom/WCMS_867540/lang--en/index.htm

Although, according to studies, "...during the 20th century, there were several attempts by domestic workers to organize unions to demand rights..." (Torres, 2020, p.5),⁴ the more recent struggle of workers' organizations to achieve the equalization of rights over two decades of sustained action has achieved significant legislative advances.

At present, the full exercise of the rights obtained has not yet reached all Mexican domestic workers, and for this to happen, measures are being undertaken by a multiplicity of actors.

The restricted rights of women workers and progress

Until 2019, paid domestic workers in Mexico faced restrictions on various labor rights that were recognized for other workers, such as a limited working day, access to social security and health services, a written contract, vacations, and parental leave, among others. All of this led to high percentages of the homes of these workers being in the highest poverty strata, as mentioned by Bensusán (2019) stating that 50.7% of the homes to which domestic workers belong are poor, and only 10.6% of them are outside the line of poverty and vulnerability.

In 2019, a Decree was approved that reformed, supplemented or repealed various provisions of the Federal Labor Law, the Organic Law of the Judiciary of the Federation, the Federal Law on Public Defenders, the Law on the Institute of the National Housing Fund for Workers, and the Social Security Law, in matters of Labor Justice, Freedom to Unionize and Collective Bargaining. With this regulation, rights were established that were not previously recognized to paid domestic work. Specifically, the following rights were recognized or ratified, among others:

- Prohibition of hiring people under fifteen years of age for this form of work,
- Obligation to contract in writing and register the contract with the competent labor authority,
- Prohibition of requesting a certificate or proof of non-pregnancy for hiring,
- Prohibition of dismissal of a pregnant domestic worker and the presumption of discrimination in case it occurs,
- Prohibition of discrimination when dealing with migrant domestic workers,
- Provision of food and a room in case of residence in the home,
- Right to vacation and vacation bonus,

⁴ WIEGO (2020). History of the movement of domestic workers in Mexico: CACEH, the Union and recent events, https://www.wiego.org/sites/default/files/2020-09/WIEGO_Resources16_SP_Web.pdf (in Spanish only)

See also: Goldsmith, M. (1992). Union of domestic workers in Mexico (1920-1950), <https://www.redalyc.org/articulo.oa?id=26700107> (in Spanish only)

- Payment of rest days and overtime work, and
- Mandatory access to social security and a Christmas bonus, after completing the IMSS Pilot Program.⁵

Previously, in 2018, a mandate from the Supreme Court of Justice of the Nation (SCJN) established the mandatory inclusion of domestic workers in social security, after hearing and ruling on a lawsuit brought by a domestic worker, María Rosario Garduño Gómez, before the Local Conciliation and Arbitration Board of Mexico City against her employers, the Mexican Institute for Social Security (IMSS) and the Institute of the National Housing Fund for Workers (INFONAVIT). The lawsuit claimed various entitlements, including a request for retroactive registration with the IMSS. As a result, the SCJN issued an opinion in 2018 in favor of the worker, declaring the unconstitutionality of the article of the Social Security Law that excluded domestic workers from the mandatory social security regime, and ordering the IMSS to design a Pilot Program for the full inclusion of domestic workers.⁶

Based on this provision, in April 2019 the Pilot Program for the Incorporation of Domestic Workers began, consisting of a program for comprehensive access to social security, with actions deployed to affiliate domestic workers to the IMSS in a simplified and automated way.⁷ The corresponding regulations⁸ indicated that a report on the progress and limitations found in the execution of this first phase of the Program should be delivered to the Federal Legislature after 18 months. This was completed in October 2020,⁹ when the IMSS formally delivered to Congress the “Report on the results of the pilot program for the incorporation of domestic workers into the mandatory Social Security regime,”¹⁰ while in the same month, the second phase also began.¹¹ As a result of this Program, affiliation to social security increased sevenfold, according to government reports, from 3,848 people in April 2019 to 27,640 people in October 2020.¹²

5 Information provided by the Government of Mexico for this study, in a document already mentioned and in a virtual consultation carried out and in data that appears in the Official Gazette of the Federation (02/07/2019), https://www.dof.gob.mx/nota_detalle.php?codigo=5564651&fecha=02/07/2019#gsc.tab=0 (in Spanish only)

6 See documents in the following links: https://www.supremacorte.gob.mx/sites/default/files/resenias_argumentativas/documento/2019-07/res-APD-0009-18.pdf; <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/resumen/2020-12/Resumen%20AD9-2018%20DGDH.pdf>; <https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2020-01/Sentencia%20AD%209-2018%20PDF.pdf> (in Spanish only)

7 ILO (2021). The Pilot test for the incorporation of domestic workers to the Mexican Institute of Social Security Study of results and recommendations for the mandatory regime, https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/---ilo-mexico/documents/publication/wcms_764986.pdf (in Spanish only)

8 OGF (02/07/2019, op.cit.) http://www.dof.gob.mx/nota_detalle.php?codigo=5564651&fecha=02/07/2019 (in Spanish only)

9 Ibid. (in Spanish only)

10 See the Opinion of the CTPS (2022) in https://infosen.senado.gob.mx/sgsp/gaceta/65/1/2022-03-16-1/assets/documentos/Dict_Trabajo_Derechos_Personas_Trabajadoras_Hogar.pdf (in Spanish only)

11 OGF (02/07/2019, op.cit.) http://www.dof.gob.mx/nota_detalle.php?codigo=5564651&fecha=02/07/2019 (in Spanish only)

12 See information at: <http://www.imss.gob.mx/prensa/archivo/202011/762> (in Spanish only)

With the Report, originally mandated by the Supreme Court, the results of the pilot program were reported: registration of 25,369 domestic workers, of which 20,903 also registered beneficiaries: 18,046 children, 6,642 spouses or common-law partners, and 4,177 parents; 69% of the people who participated in it were women; 56% of the total participants were aged between 51 and 70 years.

Based on these results, in April 2021 a group of senators presented the “Initiative with Draft Decree that reforms, adds, and repeals various provisions of the Social Security Law regarding the rights of domestic workers.” In an Open Parliament exercise in November 2021, representatives of international organizations, unions, academics, and specialists from the government sector provided inputs for the amendments to the Social Security Law, based on the obligations derived from the SCJN ruling and the ratification of ILO Convention 189 on Domestic Workers.

In October 2022, the Plenary of the Chamber of Deputies approved the Decree by which various provisions of the Social Security Law regarding domestic workers¹³ are amended, added, and repealed, granting the IMSS a period of 180 days to carry out the adaptations that would allow an effective implementation of the legal reform. The main modifications of the reform include:

- That employers, individually, are obliged to register domestic workers from the beginning of the employment relationship, and must cover the first month of insurance after the period expires,
- That payment is made by each employer according to the salary and the days worked of each domestic worker,
- That insurance may be covered per day, month, two-month period, semester, or year, and
- That the IMSS extends the insurance benefit for a full month when the sum of payments from each employer of the domestic worker exceeds the equivalent of the monthly minimum wage.

In terms of concrete results, to date:

- As of February 2023, 54,623 people have registered for the IMSS pilot program, which has a total of 68,086 registered beneficiaries,
- The average daily salary associated with the pilot program is MXP \$263.90,
- 66% of registered domestic workers are women and 34% men, and

13 DOF (16/11/22), https://dof.gob.mx/nota_detalle.php?codigo=5671665&fecha=16/11/2022#gsc.tab=0 (in Spanish only)

- As of February 2023, of the domestic workers who were once involved in the pilot program, 12,630 are already pensioners.

Government policies to improve working conditions for domestic work

After the important progress that occurred from 2018 with the mandate to include paid domestic workers in social security and the legal changes of 2019, one of the main public policies undertaken by the Federal Government was to design simple and fast mechanisms to improve affiliation to social security. Thus, since December 2019, the Ministry of Labor and Social Welfare (STPS) designed a digital platform,¹⁴ the purpose of which is to offer an access channel to information and services for domestic workers. According to the government information provided, this platform also aims to combat labor informality.

Also as of 2019, the STPS participates in the Inter-ministerial and Civil Society Working Group on Domestic Work, from which it encourages domestic workers to effectively access the full exercise of their rights in matters of work, including social security, on equal terms with the rest of the labor force. This Working Group includes the IMSS, the STPS, the National Council to Prevent Discrimination (CONAPRED), the National Commission for a Minimum Wage (CONASAMI), the Ministry of Labor and Employment Promotion (STyFE) of Mexico City, and various organizations from civil society, such as the Nosotrxs Collective, the National Union of Domestic Workers (SINACTRAHO), Hogar Justo Hogar, the Support and Training Center for Domestic Employees (CACEH), Fondo Semillas, the Simone de Beauvoir Leadership Institute (ILSB), Nacional Monte de Piedad, Women in Informal Employment: Globalizing and Organizing (WIEGO); as well as the International Labor Organization (ILO).¹⁵

Other actions carried out by the public sector to promote the full exercise of the rights of domestic workers, informed by the Federal Government, include:

- A social media campaign of the STPS, informing employers and domestic workers about their obligations and labor rights,
- Collaboration with the Ministry of Labor and Employment Promotion (STyFE) of Mexico City, in the preparation of the Safe Return Protocol for employers and workers in the household sector for Mexico City,
- Inclusion of domestic workers in the tabulator of professional minimum wages as of March 2021,
- Incorporation in the STPS information portal of the “Guide to Promote Decent Domestic Work” and “Model Domestic Work Contract” as of March 2021,

14 Available at: <https://www.gob.mx/stps/articulos/personas-trabajadoras-del-hogar> (in Spanish only)

15 Information provided by the Government of Mexico in a document sent to the CIM, already mentioned.

- Information and bulletins related to the prevention of discrimination and violence against domestic workers issued by the Ministry of the Interior (SEGOB), through the National Council for the Prevention of Discrimination (CONAPRED), in the context of the COVID-19 pandemic,
- Launch by CONAPRED of the “Equality is strength” campaign, in its “Leave no one behind, leave no one out” version, in which messages were disseminated to counter hate speech against domestic workers, and
- Joint campaign #YoEmpleoDigno of CONAPRED as part of the Multisectoral Roundtable on Paid Domestic Workers (PTHR) in Yucatán launched in September 2022 with the aim of preventing violence and discrimination in the workplace of domestic workers, as well as disseminating respect for and guaranteeing the labor rights of this population sector, by public institutions and employers.

The social organization of women domestic workers in Mexico and their support

The struggle of organizations of domestic workers in Mexico has been ongoing for more than two decades of sustained action in states such as Guerrero and Mexico City. A central organization of this movement is the Support and Training Center for Domestic Employees (CACEH), created in 2000 under the leadership of Marcelina Bautista, a domestic worker who in the 1980s participated in the process of creating the Latin American and Caribbean Confederation of Domestic Workers (CONLACTRAHO).

Almost two decades later, in 2016, the first union of domestic workers (SINACTRAHO) was created and, with the support of feminist and women’s organizations such as the Atabal Collective initially, and later others such as the Simone de Beauvoir Leadership Institute (ILSB) and JADE Sociales, among others, the fight for legal changes is sustained to obtain full rights for the sector.

The challenges imposed by the COVID-19 pandemic

The global health crisis particularly affected domestic workers. According to government information, based on the analysis of 428 responses received in the framework of the *Report on the situation of the rights of domestic workers in Mexico City*,¹⁶ in the context of the health emergency about 60% of domestic workers in Mexico City did not receive their salary on a regular basis, either because they were fired or because they were forced to take a break, while 12.1% did not lose their job, but their income was reduced.¹⁷

16 COPRED (2021). Report on the situation of the rights of domestic workers in Mexico City, <https://copred.cdmx.gob.mx/storage/app/media/informe-sobre-la-situacion-de-los-derechos-de-las-personas-trabajadoras-del-hogar-en-la-ciudad-de-mexico.pdf> (in Spanish only)

17 Ibid

The pandemic also affected the organizational capacity of paid domestic workers. The experience of the non-governmental organizations that support these workers reveals the difficulty of convening them to meet or to carry out advocacy activities due to the overload of care work in their own homes and the prioritization of obtaining income for their own survival and that of their families in the face of job loss, all of which weakened the process of demanding and defending their rights. Similarly, the virtualization of much of the organizing and advocacy work presented concrete obstacles to many workers who face connectivity challenges.

Some key recommendations

There are several key challenges to achieving the full exercise of the rights of paid domestic workers in Mexico, identified by the various sectors consulted. These challenges point to a series of concrete recommendations directed at specific sectors, including the State (at the federal, state, and local level), NGOs, unions, and international organizations.

A devalued social conception of domestic work persists, with the consequent difficulty in recognizing to this form of work the same rights established for any other labor relationship, and this needs to be modified. A key factor in this process is the change of narratives, of cultural imaginaries, of the resistance of sectors of society to equality, based on the discriminatory perceptions that subsist, and even, in some cases, of images of employment that the workers themselves develop.

Another important challenge is that workers' organizations have a clear agenda for the implementation of the rights obtained. If possible, this agenda should be common or articulated among the various organizations and include the voices of the workers themselves, as well as the strengthening and growth of organizations to expand the struggle.

The expansion of alliances is another relevant challenge, stimulating synergies and consolidating ties with civil society organizations and especially with those that can provide important support, such as feminist and women's organizations, trade union organizations and international cooperation organizations.

Finally, adequate communication, with cultural relevance and in the various languages that exist in the country, promoting collective efforts that issue clear and concise messages within the framework of collective communication efforts, is a central challenge so that the rights obtained can be demanded by workers, fulfilled by employers, and guaranteed by the State.

It should be noted that in 2021 the Government of Mexico, together with UN Women, launched the Global Alliance for Care,¹⁸ a multi-stakeholder global community of co-creation, cooperation and collaboration, of which the CIM/OAS is also a part, which seeks to ensure that domestic and care work be recognized and valued, that it be redistributed co-responsibly among the whole of society, and that the time that women and girls dedicate to it be reduced. A fundamental part of this initiative are efforts to guarantee decent working conditions for people who work in the domestic and care work sector, including their fair remuneration and labor representation.

Below is a proposed roadmap towards full rights for domestic workers in Mexico, adapted from the proposed Roadmap contained in the CIM and PADF hemispheric report, and consulted with a Group of Experts (March 2022) and Mexican government authorities (February 2023).

Roadmap towards the rights of domestic workers in Mexico

Objective 1: Achieve for domestic workers in Mexico recognition of the same rights as the rest of the workforce in all federal entities, considering ILO Convention 189 and the recommendations of the different human rights mechanisms at the international and inter-American levels

Strategy 1.1. Identify and close gaps in current regulations, especially with a view to eliminating discrepancies between advances at the federal level and their subsequent adaptation at the state level.

Strategy 1.2. Advocacy to achieve the reform of the INFONAVIT law and to deepen and make effective the implementation of the legal reforms achieved, specifically the reform of the Social Security Law, regarding domestic workers.

Strategy 1.3. Accessible communication campaigns on the advantages of formalizing domestic work and the risks of informality.

Strategy 1.4. Articulation of efforts between civil society organizations and with the public sector for joint action that promotes full rights for domestic workers.

Objective 2: Achieve the full exercise of the rights of domestic workers in Mexico

Strategy 2.1. Strengthen information systems and registration mechanisms on domestic work.

¹⁸ Global Alliance for Care: <https://alianzadecuidados.forogeneracionigualdad.mx/acerca/?lang=en>

- Strategy 2.2.* Identify and make visible persistent gaps in the rights of domestic workers, as well as the barriers to the effective exercise of these rights.
- Strategy 2.3.* Raise awareness and strengthen the capacity of state institutions to effectively implement the legislation, including administrative and jurisdictional institutions, as well as justice.
- Strategy 2.4.* Develop and disseminate efficient labor inspection and complaint mechanisms.
- Strategy 2.5.* Install or expand information and care centers for domestic workers in the states of the Federation, such as the facilities of the Federal Attorney for Labor Defense (PROFEDET), the offices of the National Employment Service (SNE) or the Local (state) Conciliation and Labor Registration Centers, with a boost in the use of indigenous languages and Mexican Sign Language.
- Strategy 2.6.* Expand the portability of rights and analysis of the situation of migrant domestic workers in Mexico, including refugees and displaced persons.
- Strategy 2.7.* Insure retirement, compensating the historical gap for access to pensions for domestic workers, including people who have been in the sector for a long time.
- Strategy 2.8.* Promote inter-institutional coordination between the local, state, and federal levels for the design and implementation of policies for the full rights of domestic workers.

Objective 3: Improve the effectiveness of social policies aimed at domestic workers and their families

- Strategy 3.1.* Implement/extend care policies for domestic workers and their families, especially for those who are elderly or disabled.
- Strategy 3.2.* Design and effectively apply specific measures for the inclusion of domestic workers and their families in social protection systems, beyond their insurance status, including concentrating the institutional efforts of the STPS and allied organizations on promoting their Social Security affiliation.

Strategy 3.3. Design and apply specific economic and financial measures to counteract the effects of the pandemic on domestic work.

Strategy 3.4. Design and implement literacy and basic education policies for domestic workers, with a differentiated and cross-cutting approach.

Objective 4: Increase knowledge around domestic work and the use of ICTs for the exercise of rights

Strategy 4.1. Generate data on domestic work and poverty, discrimination and violence in domestic work, worker organizations, profile of employers, and migration, opinion/perception surveys regarding domestic work, among other topics.

Strategy 4.2. Implement actions to raise awareness among public opinion, society in general and specific sectors such as employers, with cultural relevance and a gender and intersectional approach, and in collaboration with the National Institute of Indigenous Languages (INLI), on the importance of equal rights in domestic work and its revaluation, incorporating new narratives from a culture of human rights.

Strategy 4.3. Generate and disseminate knowledge on specific risks in domestic work.

Strategy 4.4. Develop tools based on information and communication technologies to improve socialization and knowledge of rights in domestic work among key audiences (workers, employers, civil servants, etc.).

Strategy 4.5. Disseminate and connect the various existing technological initiatives to promote the exercise of rights of domestic workers.

Objective 5: Protect domestic workers from discrimination, violence, abuse, and sexual abuse and harassment

Strategy 5.1. Install accessible complaint mechanisms and adequate legal accompaniment, including for migrant, indigenous and Afro-descendant women.

Strategy 5.2. Train relevant public officials, from a comprehensive and intersectoral approach, to raise awareness of the situation and adequate care for women

domestic workers who are victims/survivors of violence, prioritizing the relevant instances of work, justice and women's rights/gender equality.

Strategy 5.3. Provide specific protection for girls and adolescent domestic workers with a differentiated and cross-cutting approach.

Strategy 5.4. Disseminate communication campaigns on discrimination and violence in domestic work, with a differentiated and cross-cutting approach.

Strategy 5.5. Carry out advocacy actions and technical support to promote the effective implementation of ILO Convention 190.

Objective 6: Strengthen organizations of domestic workers and their articulation as key claimants of rights

Strategy 6.1. Promote the strengthening of organizations of domestic workers, with protection of their autonomy and resilience in the face of crises of all kinds.

Strategy 6.2. Support spaces for linking domestic workers' organizations with feminist and women's networks and organizations.

Strategy 6.3. Provide training to organizations of domestic workers on the rights of domestic workers and support for the professionalization of domestic work and care work.

Strategy 6.4. Support unions in finding new ways to reach more workers and expanding their affiliates.

Strategy 6.5. Generate spaces for tripartite dialogue at the regional level.

Strategy 6.6. Support spaces for visibility and consultation with organizations of domestic workers.



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