

Mexico Enters New Era in Labour Relations

Maquila Solidarity Network | October 2019



In this update, MSN provides an overview of the main changes of Mexico's Federal Labour Law which was passed by Congress on April 29, 2019 and became law on May 1. We also report on the most relevant recent developments in the implementation of the Labour Law Reform.

On April 29, 2019, the Mexican Congress approved Mexico's most ambitious labour law reform in decades. The revisions to the Federal Labour Law strengthen the right of workers to join or form a union of their free choice and to bargain collectively. It also replaces the tripartite Conciliation and Arbitration Boards, which have been a major barrier to freedom of association, with a new Federal Centre for Conciliation and Labour Registration, Local Conciliation Centres, and new Labour Tribunals at the Federal and State levels. The reforms also expand fundamental rights to domestic workers and challenge gender-based discrimination.

The reform is the outcome of years of campaigning by democratic unions and progressive labour lawyers in Mexico, as well as pressure by the international labour movement. Other developments that set the stage for the reform were commitments made by Mexico in Annex 23-A of the labour chapter of the renegotiated North American Free Trade Agreement (now known as USMCA), and the ratification of International Labour Organization (ILO) Convention 98.

The timeline for implementation of the reform is four years, with several transition phases (See p. 3), including:

- establishment of a Coordinating Council to guide the reform process, which began functioning in June;
- eight-month period for unions to update their bylaws regarding secret and direct voting, gender quotas in their leadership, and financial transparency;
- two-year period for the establishment of registration functions of the new Federal Centre, which will register and authenticate unions and collective bargaining agreements;
- three-year period for the new Local Conciliation Centres and Labour Tribunals at the state level to begin their work;
- four-year period for the Federal Centre and Federal Tribunals to begin their conciliation work;
- four-year period for the authentication of existing collective bargaining agreements.

Protocol to Authenticate CBAs

The publication of the Protocol for the Authentication of Collective Bargaining Agreements (CBAs) on July 31 started one of the most important elements in the labour reform process. Under the Protocol, unions have to put their existing CBAs to a vote by the workers covered by those agreements. If a majority of those workers vote in favour of the CBA, the agreement is authenticated. If a majority vote against it or if no vote takes place by May 1, 2023, the agreement is terminated, but any benefits in the CBA that go beyond what is provided for by law are retained. In such cases, the union or another union could negotiate an improved collective bargaining agreement, but only after the union has received a Certificate of Representivity from the Federal Centre proving that it represents at least 30% of the workforce.

The purpose of the vote on existing CBAs is to determine whether those agreements are authentic or “employer protection contracts” signed by unrepresentative unions without workers’ knowledge or consent. It is expected that around 700,000 CBAs will have to be voted on in a four-year period.

Challenges to the Reform

The reform has shaken labour relations in Mexico. The trade union movement is divided on whether to resist or support the reforms. The CTM, Mexico’s largest traditional union confederation has filed hundreds of constitutional challenges against the reform. The central focus of the challenges is on the allegation that the reforms interfere in trades unions’ internal affairs, by establishing that direct votes by union members is mandatory in most procedures, and by requiring quotas for gender composition of the trade union leadership. These legal challenges have received significant media attention, but are unlikely to succeed. The Supreme Court will have the final word on the matter.

The reform has gathered qualified support from the independent trade union movement in Mexico, but also has provoked opposition from the major business groups, sectors of the judiciary, state governments, local conciliation and arbitration boards, and the traditional trade union organizations.

Public funding needed to implement the reform is a second challenge. Although the Mexican government has promised that all necessary funds will be made available,

the context of extreme austerity and government cutbacks in public spending has put that commitment into question. So far, the Mexican government has sent mixed messages: it put forward a budget proposal that guarantees the funds earmarked specifically for the labour reform process, but it also cuts funding to the Secretariat of Labour and Social Welfare (STPS) by more than 30%. The STPS is the main agency in charge of executing the reform and is responsible for carrying out factory inspections of compliance with Protocol procedures and voting on CBAs.

The Road Ahead

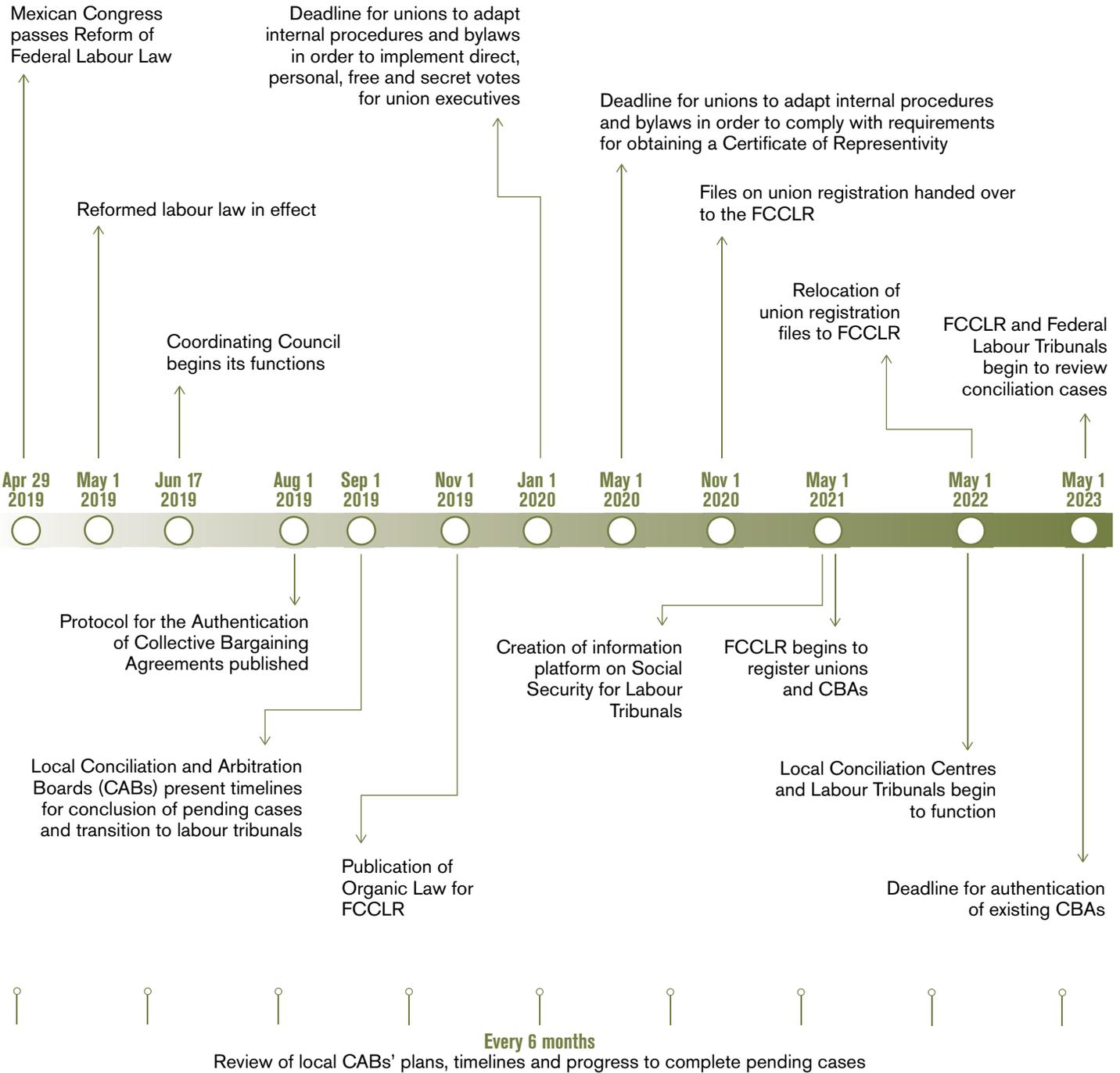
Since approval of the reform, the Mexican government has made it clear that the labour reform will be a signature achievement of the new administration and that it will proceed as planned on its implementation schedule. The timeline of four years is ambitious for implementation of a reform of this magnitude, but so far, the deadlines have been met. Some changes, such as the creation of the Federal Centre for Conciliation and Labour Registration intended for early 2020, are proceeding faster than expected.

The challenges ahead are multiple. The ratification of the USMCA continues to be delayed in the US largely because of perceived weaknesses in the enforcement provisions of the Labour Chapter of the agreement, as well as heightened party divisions in the pre-election period. US unions and representatives from the Democratic Party have raised questions about Mexico’s commitment to implement the reforms and enforce the new laws and regulations. Furthermore, the Mexican economy is entering a period of slow growth and inching closer to a recession, which may affect the priority given to the labour reform process.

Other relevant proposals to improve working conditions and job security, such as demands for renewed regulation of outsourcing, were left out of the reformed labour law, and are now being debated for a possible second wave of changes. One provision of the reformed labour law that is opposed by both independent and traditional unions is an article allowing individual workers to opt out of paying union dues even while continuing to enjoy the benefits of the collective bargaining agreement. As with right-to-work laws in the US, this provision could seriously damage the financial health and organizational strength of Mexican unions.

How these challenges play out will define the future of the reform processes and its impact on workers.

Timeline for Implementation of the Reform



MSN provides periodic updates of key issues and developments as Mexico implements commitments under its 2019 labour law reform. The outcome of this process and its impact on the exercise of freedom of association, the rights to collective bargaining and improving transparency in industrial relations is crucial to gaining justice for workers in Mexico.

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