

# Mexican Laws and International Conventions on Human Rights at Work

During the last decade, Mexico has undertaken significant reforms of its labour laws and has ratified international conventions on human rights at work. The following list outlines the most significant rights and obligations regarding freedom of association and collective bargaining under Mexican labour law and International conventions, as of May 2019. The list highlights the elevation of international conventions on human rights to the Constitutional level in Mexico, the recently ratified ILO Convention 98, the constitutional reform to the labour justice system, as well as a summary of the new obligations agreed upon under the revised North American Free Trade Agreement.

## INTERNATIONAL CONVENTIONS

**ILO Convention 87, Freedom of Association and Protection of the Right to Organize** (ratified by Mexico in April 1950): Guarantees the right of workers and employers to establish and join organizations of their choosing without previous authorization.

**ILO Convention 98, The Right to Organize and Collective Bargaining** (ratified by Mexico in September 2018): Guarantees the right of workers to adequate protection against anti-union discrimination, including requirements that a worker not join a union or relinquish trade union membership for employment, or dismissal of a worker because of union membership or participation in union activities. Prohibits any acts of interference by an employer in workers' organizations by financial or other means, with the objective of placing such organizations under the employer's control. Enshrines the right of workers to collective bargaining with their employer on the terms and conditions of their employment.

**June 2011 Constitutional Reform:** Elevates human rights protections established in international treaties ratified by Mexico, including those related to labour rights, to the constitutional level, thereby providing greater assurances to workers and stronger obligations to employers on the right of workers to freedom of association and collective bargaining.



## Labour Provisions of Re-Negotiated North American Free Trade Agreement

**Chapter 23 of T-MEC / (Labour Chapter):** Requires each of the three signatory countries to adopt and maintain in its statutes and regulations, and practices thereunder, the right to freedom of association and collective bargaining, including the right to strike. Requires each country to address cases of violence, threats, and intimidation against workers, including violence and threats of violence against workers directly related to exercising or attempting to exercise their right to freedom of association and collective bargaining.

**Annex 23-A of T-MEC:** Requires that the Mexican government adopt legislation in accordance with Mexico's Constitution that commits the government to do the following:

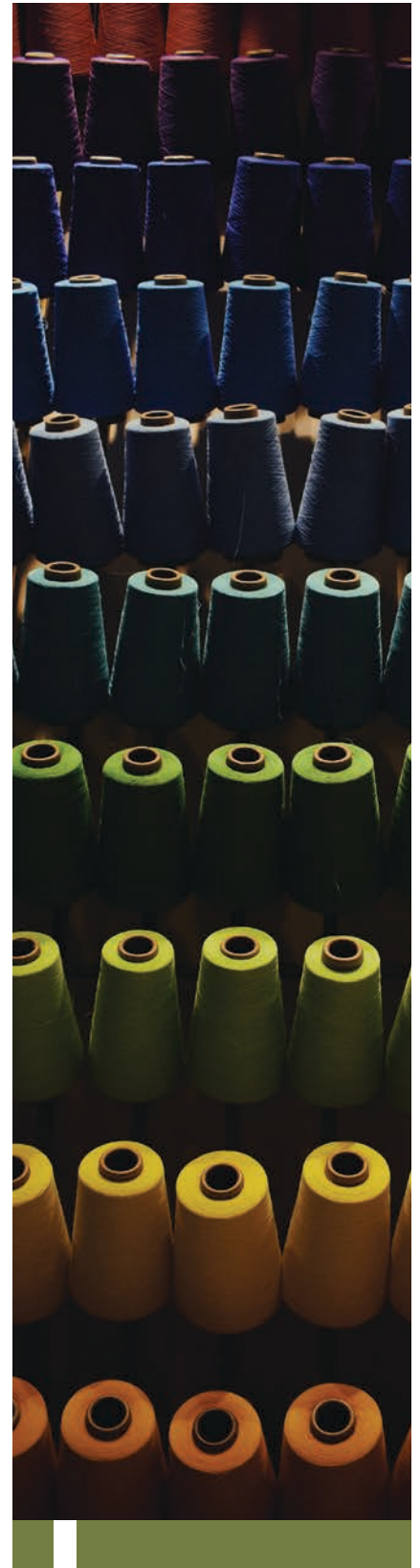
- Ensure the right of workers to engage in concerted activities for collective bargaining or protection and to organize, form, and join the union of their choice;
- Prohibit employer domination or interference in union activities, discrimination or coercion against workers for union activity or support, and refusal to bargain collectively with the duly recognized union;
- Verify that elections of union leaders, union representation elections, and ratifications of the initial collective bargaining agreement, and revisions to the CBA are carried out through personal, free and secret ballot votes.
- Ensure that all existing CBAs be revised at least once during the four years after the legislation goes into effect.

## REFORMS TO MEXICO'S LABOUR JUSTICE SYSTEM

### February 2017 Constitutional Reform (Articles 107 and 123):

On freedom of association and collective bargaining, the 2017 Constitutional reform requires that:

- Union representation elections, election of union leaders, and votes on union requests for bargaining rights must be personal, free, universal and secret;
- Union representivity must be a condition of the signing, filing and registration of a first Collective Bargaining Agreement (CBA); and
- The union must demonstrate that it represents workers at a workplace if it has filed a strike notice to oblige the employer to negotiate a first collective bargaining agreement.



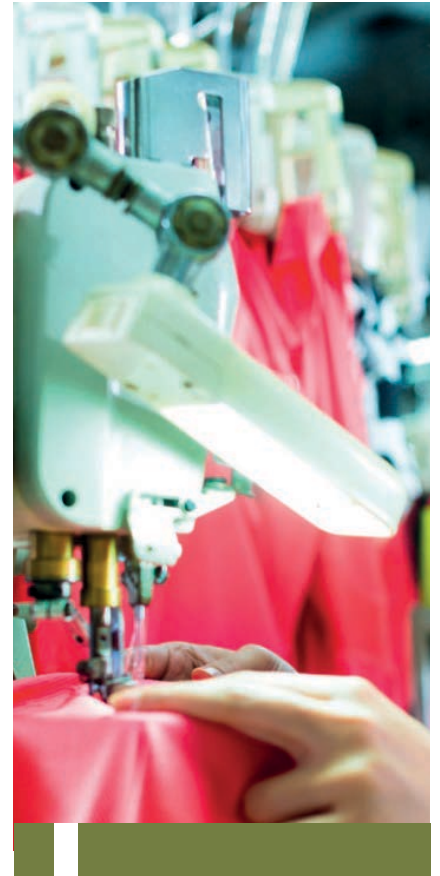
## Revisions to Federal Labour Law to Implement 2017 Constitutional Reform (May 2019):

- Exiting tripartite Conciliation and Arbitration Boards will be replaced by a Public, Decentralized Institution of the Federal Government, called the Federal Centre for Conciliation and Labour Registration, which will be headquartered in Mexico City with regional offices. The Centre will register new unions and collective bargaining agreements, and those unions will have to provide evidence to the Centre that they have the support of at least 30% of the workers in a bargaining unit in order to receive a Certificate of Representivity and register a first CBA.
- Workers without distinction have the right to constitute organizations as they see fit, without previous authorization, or to affiliate with them. Interference by employers or their representatives in the formation, functioning or administration of a worker organization is prohibited, including those acts or measures that tend to encourage the constitution of workers' organizations dominated by an employer or employer association or that support in any form worker organizations with the intent of subjecting them to their control. No one can be obligated to form or be part of a union. Elections for union leaders must be by personal, free, direct and secret ballot votes of the union members.
- Workers have the right to vote by secret ballot on a collective bargaining agreement after it is negotiated, as well as revisions to the CBA, before they are registered. The union must provide workers a printed or electronic copy of the negotiated CBA prior to the vote.
- Within 15 days after a CBA or a revision to the CBA is deposited with the Federal Centre for Conciliation and Labour Registration, the employer must provide each worker a printed copy of the CBA or revision to the CBA, receipt of which must be confirmed in writing by each worker.
- Existing collective bargaining agreements must be revised at least once within four years of the reformed Federal Labour Law coming into effect, and there must be a secret ballot vote by all workers on the revised CBA. If workers vote against the CBA, that vote does not eliminate the rights and benefits contained in that CBA that go beyond what is required by law. As well, the union has the option to reenter negotiations with the employer for a new CBA, but the union must obtain a certificate of representivity from the Federal Centre, the CBA must be approved by the majority of the workers in a personal, free and secret ballot vote, and the process must be validated by the Federal Centre.



## Protocol for the Authentication of Existing Collective Bargaining Agreements (July 31, 2019)

- The union is responsible for giving notice of and overseeing the consultation with the workers on the existing CBA; the employer must be granted sufficient notice in order for the consultation to take place at the date, time and place indicated.
- The employer must provide the necessary facilities for the vote to take place and give the workers a printed copy of the CBA at least three days prior to the vote.
- The location designated for the vote must be accessible to workers and meet the necessary conditions for them to cast their vote in a personal, free, secret, direct, peaceful, agile and secure manner, without being coerced in any way.
- The employer must not intervene in the consultation process in any manner.
- The union shall post the voting minutes in visible and accessible places of the workplace and in the union premises.
- The labour authority may verify compliance with the requirements established in the Protocol while a consultation is being carried out. If irregularities in the process are substantiated from the data provided for verification, STPS may declare the procedure null and void. In such cases, the union may carry out the consultation again.



## OTHER RELEVANT LEGISLATIVE REFORMS

### 2012 Federal Labour Law Reforms:

- Outlaws the practice of having an exclusion clause for dismissal in the CBA, which required the employer to dismiss any worker expelled from the union;
- Requires the Conciliation and Arbitration Boards (juntas) to publish information on unions' bylaws and CBAs they have registered;
- Gives workers the right to request access to union financial accounts; and
- Requires employers to post and disseminate CBAs in the workplace.

### General Law on Transparency and Access to Public Information, Article

**78 (May 2015):** Reinforces the Federal Labour Law reforms by requiring the labour authorities to publish union registration information, including membership rolls and affiliation to trade union centrals, as well as union bylaws and CBAs.

**STPS Labour Inspection Protocol (February 2016):** Prioritizes enforcement of the new requirement that employers post and disseminate CBAs in the workplace and establishes inspection procedures for inspectors to assess compliance.