

# Mexico<sup>1</sup>

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NB. Mexico is a federal state with 31 federate states plus a federal district.

For comparisons with other countries in this review – on demographic, economic, employment and gender equality indicators and on leave provision and early childhood education and care services - go to [cross-country comparisons](#) page on website. To contact authors of country notes, go to [membership](#) page on website.

## 1. Current leave and other employment-related policies to support parents

### a. Maternity leave (*licencia de maternidad, seguro de maternidad*) (responsibility of the Ministry of Labour and Social Welfare – *Secretaría del Trabajo y Previsión Social*, at federal level)

*Length of leave (before and after birth)*

- Twelve weeks: six weeks before the birth and six weeks following the birth. The whole period is obligatory.

*Payment and funding*

- Hundred per cent of earnings, with no ceiling on payments for the basic period.
- Fifty per cent of earnings for a period not exceeding sixty days if Maternity leave is extended.
- Maternity leave is funded by social security (*Seguro de maternidad*) on a tripartite basis: employers pay 70 per cent, employees 25 per cent, and the federal government five per cent. However, the payment made by social security depends on the amount of the contributions that have been paid by both the employer and the employee, such as pension or retirement contributions. Therefore the exact payment can be complicated to work out.

*Flexibility in use*

- By specific request of an employee, up to four of the six weeks of Maternity leave before birth can be transferred after birth. This requires a formal statement from a doctor, and takes into consideration the employer's view and the type of work the employee performs.

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<sup>1</sup> Please cite as: Pérez, C. (2015) 'Mexico country note', in: P. Moss (ed.) *International Review of Leave Policies and Research 2015*. Available at: [http://www.leavenetwork.org/lp\\_and\\_r\\_reports/](http://www.leavenetwork.org/lp_and_r_reports/)

<sup>2</sup> Early Institute (previously Think Action Development) is a Mexican Think Tank constituted since 2007 by a group of social scientists and lawyers who develop applied research and consultancy mainly to analyse and inform public policies on childhood. In particular they contributed to the preparatory work for the introduction of Paternity leave in Mexico in 2012.

- Maternity leave is extended for the time necessary in the event that the employed woman is found unable to work due to pregnancy or childbirth

*Eligibility (e.g. related to employment or family circumstances)*

- Employees must have contributed to social security for at least 30 weeks in the 12 months before the date on which the Maternity leave starts. When the employed woman does not meet this requirement, it is the responsibility of the employer to pay hundred per cent of the earnings. Employees must not perform any paid work during pre- and post-natal periods.
- Only women employees in the formal economy are eligible for Maternity leave. About 60 percent of all employed women have no access to social security since they work in the informal economy. Furthermore the self-employed have a special and voluntary social security regime (*régimen voluntario*), which does not include Maternity leave insurance, so they do not have any maternity leave benefit.

*Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the mother*

- If the child is born with any kind of disability or requires hospital care, leave can be extended to eight weeks after birth, although the mother must show a medical certificate to claim this extension.

*Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)*

- For public employees, Maternity leave is one month before the expected delivery date and two months after birth, paid at 100 per cent of earnings.
- The 2006 National Survey on the Dynamics of Household Relations<sup>3</sup> revealed that 2.4 million women had faced some form of employment discrimination, of those, 1.1 million stated they were asked to take a pregnancy test as a requirement for entry to work. Furthermore, more than 99,000 reported that they had been laid off, had not had their contracts renewed, or had their wages lowered when they got pregnant. Since 2012, it is illegal for employers to request a 'certificate of not being pregnant' (*certificado médico de no embarazo*) as a condition of new employment, permanence of employment or promotion. It is strictly prohibited to dismiss an employee or coerce her to resign for being pregnant, changing her marital status or childcare arrangements. However, pregnancy discrimination is widespread and most cases remain unpunished, with the majority not even being reported.

## **b. Paternity leave (*Permiso de paternidad*) (responsibility of the Ministry of Labour and Social Welfare)**

*Length of leave*

- Five days.

*Payment and funding*

- One hundred per cent of earnings, paid by the employer.

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<sup>3</sup> INEGI (2006). *Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares 2006*, ENDIREH. México.

### *Flexibility in use*

- None.

### *Eligibility (e.g. related to employment or family circumstances)*

- As with Maternity leave, Paternity leave only relates to parents in the formal economy, so does not apply to about 60 per cent of male employees, who have no access to social security.

### *Variation in leave due to child or family reasons (e.g. multiple or premature births; poor health or disability of child or mother; lone parent); or delegation of leave to person other than the parents*

- Paternity leave can be extended in cases of serious illness of the child or death of the mother.

### *Additional note (e.g. if leave payments are often supplemented by collective agreements; employer exclusions or rights to postpone)*

- In recent years some government agencies have implemented extra Paternity leave, including the National Women's Institute (INMUJERES), the Ministry of Social Development (SEDESOL) and the Federal Electoral Tribunal, all of which grant ten days of Paternity leave. In the case of employees of the Federal District Government, Paternity leave is extended to 15 days.

## **c. Parental leave**

No statutory entitlement.

## **d. Childcare leave or career breaks**

No statutory entitlement.

## **e. Other employment-related measures**

### *Adoption leave and pay*

- In case of adoption, the mother is entitled to six weeks of paid leave, after the day that the mother receives the child.

### *Time off for the care of dependants*

No statutory entitlement.

### *Flexible working*

- Mothers can take two fully-paid breaks per day, up to half an hour each, to (breast) feed their child (*periodo de lactancia*), until the child is six months old. These breaks should be in a proper and hygienic place designated by the employer, or, if this is not possible, the mother's working day should be reduced by one hour.

## **2. Relationship between leave policy and early childhood education and care policy**

The maximum period of paid post-natal leave available in Mexico is six weeks, paid at a high income-related level. Attendance at ECEC is compulsory from four years of age, but there is no entitlement for younger children. So there is a substantial gap of nearly four years between the end of leave and an ECEC entitlement. Levels of attendance at formal services for children under three years are well below the average for countries included in this review and all OECD countries, but for children over three years attendance is above the OECD average and similar to the average for countries included in this review. For actual attendance levels, see 'relationship between leave and ECEC entitlements' on [cross-country comparisons](#) page.

## **3. Changes in policy since April 2010 (including proposals currently under discussion)**

The Federal Labour Law (*Ley Federal del Trabajo*) was approved in 2012, the most significant reform in recent years. Measures introduced by this law included:

- Five days fully-paid Paternity leave.
- Making it illegal for employers to request a 'certificate of not being pregnant', or to dismiss an employee or coerce her to resign for being pregnant, changing her marital status or childcare arrangements.
- Two fully-paid breaks per day, up to half an hour each, for mothers to (breast) feed their child, until the child is six months old.
- Six weeks paid leave for mothers who adopt a child.
- Maternity leave extended to eight weeks if a child is born with any kind of disability or requires hospital care.

Later proposals have been made, mainly to extend paternity leave but none have been approved at the federal level.

## **4. Take-up of leave**

### **a. Maternity leave**

Maternity leave benefit covered 19.7 per cent of the 2,586,287 births in 2011 (author calculations based on data provided by the Mexican Social Security Institute, the Institute for Social Security and Services for State Workers and the National Institute of Statistics and Geography).

### **b. Paternity leave**

No information.

### **c. Parental leave and Parental benefit**

No statutory entitlement.

## **5. Research and publications on leave and other employment-related policies since April 2005**

### **a. General overview**

Leave arrangements are not yet a research topic in Mexico. The impact of leave arrangements on gender and social equality in the labour market and on fertility decisions is an unexplored field. There are some studies in the field of Law that have examined Maternity leave as a starting point to promote Paternity leave, but these are still nascent.

### **b. References and selected publications since April 2005**

Mendizábal, G. (2006) 'Análisis comparativo de las prestaciones de seguridad social por maternidad', *Boletín Mexicano de Derecho Comparado*, Vol.XXXIX, No.116: 453-479.

This article examines the rules on social protection of maternity as a protected risk, and concludes that the evolution of such rules has been stopped in Mexico. Through a comparative law study, the author identifies important reforms that have produced gender equality in other countries like Italy, Spain and Austria. References to the law of these countries are made, as well as to norms that have expanded social protection to the father and to norms on adoption. The article concludes by proposing that further and wider studies are required to reform social security maternity benefits in Mexico

### **c. Ongoing research**

*The social politics of fatherhood in Mexico and Spain.* (2015-16). Cándido Pérez, doctoral study at Universidad Anáhuac México Norte, Estado de México, México.

The research investigates the role of public policies on paternal involvement in early childhood comparing Mexico and Spain. The analysis focuses on policies related to early childhood, particularly Maternity leave, Paternity leave and Parental leave as well as early childhood education and care centres for children under four years old. The study seeks to determine whether public policies implemented in recent years facilitate the development of dual earner models or reinforce the caring mother model. Contact: [cperez@earlyinstitute.org](mailto:cperez@earlyinstitute.org)