

# Mexico<sup>1</sup>

Cándido Pérez (Early Institute<sup>2</sup>)

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NB. Mexico is a federal state with 31 federal states and Mexico City.

For comparisons with other countries in this review on leave provision and early childhood education and care services, please see the cross-country tables at the front of the review (also available individually on the Leave Network website). To contact authors of country notes, see the members page on the Leave Network 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 (12) weeks: two to six weeks of pre-natal leave; and six to 10 weeks of post-natal leave. It is obligatory to take the whole period.

*Payment and funding*

- One hundred (100) per cent of earnings, with no ceiling on payments for the standard period.
- Fifty (50) per cent of earnings for a period not exceeding 60 days if Maternity leave is extended.
- Maternity leave is financed by social security on a tripartite basis: employers pay 70 per cent, employees 25 per cent and the federal government five per cent.
- Maternity leave periods are also taken into account in the calculation of old age and pension benefits.

*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

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<sup>2</sup> Early Institute is a Mexican Think Tank constituted 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, 2012.

formal statement from a doctor, and takes into consideration the employer's view and the type of work the employee performs.

- 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 statutory responsibility of the employer to pay the 100 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. More than 60 per cent of all employed women have no access to social security since they work in the informal economy. Women who are self-employed have a special and voluntary social security regime (*régimen voluntario*), which does not include Maternity leave insurance.
- Unemployed mothers do not have any Maternity leave benefit.
- Under current laws, same sex parents are not eligible for the Maternity leave, but a recent Supreme Court ruling determined that they can benefit from it.

*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 up 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)*

- Recently, local governments such as Yucatán (2016) and Chihuahua (2017) have extended the Maternity leave from 12 to 14 weeks. These changes apply just for public employees.
- As a general rule, for public employees, Maternity leave is one month before 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 that 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

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<sup>3</sup> INEGI (2006) *Encuesta Nacional sobre la Dinámica de las Relaciones en los Hogares [National Inquiry into the Dynamics of Relationships in the Home]*, ENDIREH: México.

discrimination is widespread and most cases remain unpunished, with the majority of instances not even being reported.

**b. Paternity leave (permiso de paternidad) (responsibility of the Ministry of Labour and Social Welfare – *Secretaría del Trabajo y Previsión Social*, at federal level)**

*Length of leave*

- Five working days.

*Payment and funding*

- One hundred (100) per cent of earnings, paid by the employer.
- Paternity leave period is also taken into account in the calculation of old age and pension benefits.

*Flexibility in use*

- None.

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

- As Maternity leave, Paternity leave only applies 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.
- Unemployed fathers do not have any Paternity leave benefit.
- Same sex parents are eligible for Paternity leave.

*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)*

- Many public agencies and academic institutions grant longer periods of Paternity leave than those contained in the Law of 2012, usually between ten and 15 days paid at full earnings. Several institutions have joined this positive trend, such as the Ministry of Social Development, the Ministry of the Interior, the Ministry of Foreign Affairs, the Electoral Tribunal of the Federal Judiciary, the Federal Police, the National Workers' Housing Fund, the National Women's' Institute, the Human Rights Commission of the Federal District, *El Colegio de la Frontera Sur*, the National Polytechnic Institute and the governments of Mexico City and Tamaulipas as well as the Guanajuato City Council.

**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 she receives the child. While the father is entitled to five working days.

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

- No statutory entitlement.

##### *Flexible working*

- None.

##### *Specific provision for (breast-)feeding*

- Mothers can have 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 ten weeks, paid at a high income-related level. Attendance at ECEC is compulsory from three years of age, but there is no entitlement for younger children. So for many cases there is a substantial gap of nearly three years between the end of leave and an ECEC entitlement. There is no complete information on levels of attendance at formal services for children under three years, but for children over three years attendance is just below the OECD average. For actual attendance levels, see 'relationship between leave and ECEC entitlements' on cross-country comparisons page.

## **3. Changes in policy since April 2017 (including proposals currently under discussion)**

Currently there are four proposals concerning leave policy in Congress (both the House of Deputies and the Senate). They propose to extend Maternity leave to 14 weeks and Paternity leave to four weeks. All of them were presented by Senator María Cristina Díaz from the Institutional Revolutionary Party (PRI). These proposals should be discussed in the House of Deputies during 2018.

## 4. Take-up of leave

### a. Maternity leave

Maternity leave benefit covered about 26 per cent of the 2,353,596 births in 2015 (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

There is no information available.

### c. Parental leave and Parental benefit

No statutory entitlement.

## 5. Research and publications on leave and other employment-related policies since April 2017

Please be aware that this is not intended to be a comprehensive list of all publications or research in this area for this country. If you are aware of a publication or research that could be listed in this section, please contact the country note author(s) so that they can include it for the following year.

### a. General overview

Leave arrangements are not yet an established research topic in Mexico. The impact of the 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. Nevertheless, research related to fatherhood and low paternal involvement in childcare, upbringing and housework, as well as policies around these childhood education and care, are receiving increasing attention.

### b. Selected recent publications

Mateo-Díaz, M and Rodriguez-Chamussy, L. (2016) *Educación que rinde. Mujeres, trabajo y cuidado infantil en América Latina y el Caribe* [Cashing in on Education: Women, Childcare, and Prosperity in Latin America and the Caribbean]. Latin American Development Forum. Available at: doi:10.1596/978-1-4648-0902-6.

This book is about the potential for increasing growth and social inclusion through higher female labour force participation. It explores the effectiveness of childcare provision as a policy tool to lift constraints women face to contribute more actively to the income generation in their households. By reviewing the factors associated with take-up of existing programs, and by looking at the characteristics of the wide range of childcare programs in the region—often incoherent and lacking an integrated perspective—the authors present a convincing argument in favour of using childcare as a tool to foster participation.

The text overviews the public and private supply of childcare programs in Latin America and the Caribbean, based on data gathered from specialists and

directors of publicly supported childcare programs in 21 countries, included Mexico. It identifies a gap between supply and demand and shows that segmentation in the use of childcare programs affects the incidence of public spending. The book describes how different systems (parental leave, publicly subsidized childcare programs, and compulsory education) structure transitions and service hours, while identifying the problems families encounter when trying to reconcile family and work schedules.

López Estrada, S. (2017) Políticas de cuidado infantil en América Latina: Análisis comparado de Chile, Costa Rica, Uruguay y México' ['Childcare Policies in Latin America: A Comparative Analysis of Chile, Costa Rica, Uruguay and Mexico'], *Frontera Norte*, Vol.29, No. 58: 25-46. Available at: [http://www.scielo.org.mx/scielo.php?pid=S0187-73722017000200025&script=sci\\_arttext](http://www.scielo.org.mx/scielo.php?pid=S0187-73722017000200025&script=sci_arttext)

The article presents a comparative analysis of childcare policies in Chile, Costa Rica, Uruguay and Mexico, underpinned by the critical frame analysis, considering the problem that each policy solves, as well as its aims and solutions. Mostly based on governmental documents and Latin American literature regarding childcare policies, the author presents the main differences and similarities among the three countries.

While the Chilean policies seems to have greater congruence between the diagnosis focused on child development and the formulated solution, in Costa Rica and Uruguay, there is greater progress in the discussion of childcare as a public problem from an approach of equality, rights and citizenship, which points to a universal system of childcare. In contrast, the debate in Mexico is still incipient, although there are efforts to expand the interpretative framework of female participation in labour markets, when considering the framework of integral child development. However, these approaches are still limited and targeted on vulnerable populations, so in this country it is necessary to rethink care policies from the perspective of equality, rights and citizenship.

### **c. Ongoing research**

*The social politics of fatherhood in Mexico.* (2015-). 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 in Mexico. 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: Cándido Pérez at [cperez@earlyinstitute.org](mailto:cperez@earlyinstitute.org).