



▶ Social Protection in Action: Building Social Protection Floors for All

2022

Mexico: Social rights in the political constitution of Mexico City

Summary

Until 2018, the capital of Mexico, Mexico City (CDMX), was the only entity of that country's 32 states and districts without its own political constitution. This historical characteristic of the federal district of CDMX derived from its being the national seat of power. The lack of constitution had a negative impact on the rights of its residents. The head of Government of CDMX presented an initiative to develop a constitution to the national congress in 2013.

The design of the constitution was informed by more than 500 meetings, consultations and exchanges with labour unions, businessmen, priority groups and communities, among many other social actors. In January 2015, the Decree of Political Reform of Mexico City was published, which stipulates the creation of a Constituent Assembly.

The Political Constitution of Mexico City (CPCDMX) was enacted on 5 February 2017. It entered into force on 17 September 2018. The CPCDMX is the first local constitution issued after the 2011 Constitutional Reform on Human Rights.

Main Lessons Learned

- ▶ A local constitution, such as the one in Mexico City, can influence the recognition of rights in other parts of the country at the federal and state levels.
- ▶ The inclusive social dialogue in the process of building the CPCDMX helped ensure a gender vision and sensitivity to the rights of priority groups.
- ▶ The CPCDMX recognizes the universality of rights, with proactive measures to ensure that groups that need special attention are included and that any type of discrimination, including discrimination based on gender, is avoided.
- ▶ Although the CPCDMX recognized certain rights, these still need to be implemented in practice through laws and regulations.

Social Protection Floors Recommendation, 2012 (No. 202)

SDG 1.3 aims to implement nationally appropriate social protection systems and measures for all, including floors, and by 2030, achieve substantial coverage of the poor and the vulnerable.

Social protection floors (SPFs) guarantee access to essential health care and basic income security for children, persons of working age and older persons. 187 countries have adopted the Social Protection Floors

Recommendation, 2012 (No. 202), to achieve universal social protection. This note presents a successful country experience of expanding social protection.

The CPCDMX is based on the key principles of Recommendation, 2012 (No. 202), such as the universality of protection; ensuring that entitlements are prescribed by law; and ensuring non-discrimination and the responsiveness to special needs.

Context

To prepare the CPCDMX, the head of the local Government set up a drafting group comprising 30 people drawn from various sectors: academics, specialists in issues of importance to the city, civil servants and social activists, among others. The Constituent Assembly was formed to amend and adopt the proposed constitution. Of its 100 members, 40 were designated by the two Chambers of the Federal Legislative, the President of the Republic and the head of Government of Mexico City, while the remaining 60 members were elected by citizens from party lists (Jusidman 2017).

Description of the initiative

The intense and innovative process of consultation, debate and proposal development included petitions and citizen meetings, public forums and dialogues, consultations with indigenous communities and neighbourhoods, suggestions and recommendations from international organizations, especially the United Nations system.

These consultations led to the submission of 544 initiatives from members of parliament and the Constituent Assembly and 978 citizen proposals.¹

The submissions were discussed in the Constituent Assembly, which was guided by open parliamentary practices: 10,000 people who were involved in the development of the proposals were in attendance and its sessions were broadcast on television to ensure a transparent process.

Impact of the CPCDMX

The CPCDMX is based on a rights-based approach, with an emphasis on social rights, and is aligned with the objectives of the 2030 Agenda for Sustainable Development. The application of the binding nature of the international instruments ratified by Mexico was recognized in the CPCDMX. Other instruments not yet ratified by Mexico at that time, such as the Right to Organise and Collective Bargaining Convention, 1949 (No. 98),² inspired the establishment of certain rights in the CPCDMX, such as freedom of association (Luján 2018).

The CPCDMX is closely linked to Recommendation No. 202 and encompasses the guiding principles³ outlined below.

Universality and non-discrimination

The CPCDMX recognizes the universality of rights and includes proactive measures to ensure that groups that need special attention are included and avoid any type of discrimination, including discrimination based on gender. It pays priority attention to vulnerable groups, such as children and adolescents; women; the elderly, people with disabilities; the Lesbian, Gay, Bisexual, Transgender, Intersex (LGBTI) community; migrants; victims of violence; people deprived of their liberty and residing in social assistance institutions; Afro-descendants; people of indigenous identity; and religious minorities.

Social and cultural rights

The CPCDMX establishes the right to quality education at all levels, to make active efforts to ensure attendance and to attain knowledge and access continuous learning opportunities. It also ensures that cultural activities, arts and sciences are free of any censorship. The CPCDMX further sets out the right to care, including universal medical coverage. Lastly, it ensures access to adequate and nutritious food, housing and water.

The CPCDMX also promotes the right to well-being and income security through the provision of a social welfare system that encompasses education, culture, sports and care for vulnerable persons. In its article 17, the CPCDMX also guarantees the right to social security and to the minimum vital income required for a decent life.

Labour rights

The CPCDMX recognizes the right to decent work, which is defined as formal work that is free of child labour and is conducted under fair conditions. It also encourages formality, full employment, vocational training, the use of inspections to reduce occupational risks, freedom of association and collective bargaining, while provisions are also included to prevent workplace discrimination. Unemployment insurance is guaranteed by the CPCDMX, which also recognizes certain priority professions, such as

¹ Mexico, "Constitución Política de la Ciudad de México", *Boletines*, 31 January 2018.

² Ratified by Mexico on 23 November 2018.

³ Ciudad de Mexico, *Constitución Política de la Ciudad de México*, 2017.

domestic workers and caregivers, and the need to establish a work–life balance.

Ensuring compliance and transparency

In order to ensure compliance and transparency, the CPCDMX mandates the use of certain procedures and institutions for proper planning, including the General Development Plan of Mexico City, the General Programme of Territorial Planning and the Government Programme of Mexico City. However, as of 2022 these tools have not yet entered fully in use, with only the Government Programme of Mexico City having an approved plan in place.

Challenges and way forward

One of the main challenges of the implementation of the CPCDMX is the enforcement of the rights and mechanisms it provides. Since its adoption, a number of complementary laws have been approved to implement some of the constitutional rights, at the national, state and Mexico City levels. These include, among others, the Housing Law reformed in 2021; the Health Law of Mexico City of 2021; the Law of Climate Change Mitigation and Adaptation (2021); the Law Defending the Rights of Children and Adolescents (2021); the Law to Prevent and Eliminate Discrimination (2020); and the Law for the Recognition of the Rights of the Elderly and the Integral System for their Care of Mexico City (2021).

However, many more laws would need to be enacted to ensure that all rights in the CPCDMX are realized, such as the right to a minimum living wage, the right to unemployment protection and the right to income security in old age. In addition, Mexico City still has a very high rate of informality in the workplace (49.3 per cent of the working population) and labour laws have not yet been changed to facilitate the transition to the formal economy, as mandated in the CPCDMX.

In addition, not all planning, measurement and evaluation mechanisms have been established. According to the text of the CPCDMX, a general development plan for Mexico City must be approved, which develops a 20-year vision and allows for the articulation of long-range policies on the most relevant issues in order to achieve greater social, economic, environmental and territorial resilience. While a proposal was introduced in 2020, it has not yet been approved.

Although the development of the CPCDMX was done through an open and consultative process, citizens may not feel equal ownership of the drafting and implementation processes of the secondary laws. Finally, the mechanisms for the distribution of competencies between the Government of the CDMX and its 16 municipalities for the implementation of the CPCDMX should be established.

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