



► Project Brief

September 2024

Leveraging social protection systems to support parents to provide the best care for their children

Prospectives from the experience of Mexico

Key points

- Social protection, rooted in a rights-based framework and with a gender-responsive approach, is essential in facilitating the permanence of workers with family responsibilities in the labour market. This refers to individuals with responsibilities towards their dependent children or other direct family members who need their care or support.
- In this context, this brief pays special attention to how social protection systems can help reconcile workers' labour and family responsibilities while promoting gender equality. It provides an overview of the current national legislation and practices in Mexico regarding social protection, particularly maternity protection, paternity benefits, parental benefits, and childcare policies, and it identifies some gaps.

Social protection to facilitate the integration and retention of workers with family responsibilities in the labor market

Background

Social security is a human right recognised as such by the Universal Declaration of Human Rights (Article 22), the International Covenant on Economic, Social and Cultural Rights (Article 9), and other human rights instruments. Social protection comprises a set of benefits, both monetary and in-kind, aimed at protecting all individuals throughout their life cycle against certain social risks by ensuring income security and access to healthcare

The enjoyment of the right to social security is a central element to the achievement of several of the UN Sustainable Development Goals (SDGs) as it enables the realization of other human rights, such as the right to health, food, work, housing, education among others. As an enabler of inclusive economic growth and income security throughout the life cycle, social protection is indispensable to achieving SDG 1, *No Poverty*. It is explicitly recognised as such in Target 1.3, which concerns the implementation of national social protection systems for all, including Social Protection Floors as defined by ILO Recommendation No. 202. Additionally, social protection can play a pivotal role in the achievement of good health and well-being (SDG 3), gender equality (SDG 5), decent work and economic growth (SDG 8), and reduced inequalities (SDG 10).

However, social protection is not a reality for nearly half of the world's population, with 47.6 percent of lacking access

to even one cash benefit, and a persisting gender gap, with 49.9 percent of women lacking any form of coverage, compared to 45.4 percent of men. The disparity is greater in lower-middle-income countries, where a 7.5 percent difference in effective coverage is registered between men and women, of whom 36.1 and 26.5 percent respectively are covered by at least one cash benefit (ILO 2024a). The root causes of enduring coverage gaps are to be found in the labour market, within the household, and more broadly within established socio-cultural norms, which in practice are all strongly inter-related and contributing to higher barriers of access for women to social and economic life.

According to ILO surveys, family responsibilities are among the main reasons for the inactivity, low permanence or slow progression of women in the world of work (ILO, 2018, ILO-Gallup, 2017). Worldwide, in 2023, 748 million people aged 15 and above were outside the labour force due to care responsibilities, of which 708 million were women and 40 million were men (OIT 2024b). This demonstrates that balancing work responsibilities with family responsibilities is even more complex for women.

In fact, despite the progress that has been made in the last decades, women still provide a disproportionate share of unpaid, unrecognised work within the household, and are therefore tend to more often engage in informal, part-time, and casual employment, and to leave employment altogether to meet increases in care needs (ILO 2024c, Razavi et al. 2024), which has negative impacts on their social security coverage and the adequacy of their benefits, especially in old-age pensions, as shorter and discontinuous careers, lower wages, and slower professional progressions result in insufficient benefit levels or exclusion, especially in contributory systems. As a consequence, women are often left in a state of socio-economic vulnerability, especially in old age (ILO 2024a, OISS 2014).

Specifically in Mexico, it can be observed that effective social security coverage reaches 80.8 percent of its population by at least one social protection benefit, as of 2022, according to the most recent data (ILO 2024a). However, coverage across branches varies significantly and, while coverage of the old-age pension scheme is near-universal, schemes for individuals of working age

report low coverage, such as for work injury (41.7), maternity (14.9), and unemployment protection (8.3 percent) (ILO 2024a).

This situation can be explained by two reasons. Firstly, the high percentage of workers in the informal economy, around 55 percent of workers in Mexico are employed in the informal economy, with very limited access to social protection. Secondly, the voluntary scheme for self-employed workers to join social security, in fact, 31.8 percent of workers are self-employed and therefore have no legal obligation to join social security but can do so voluntarily (ILO 2022).

If employment figures by gender are analyzed, it can be seen that women report slightly higher numbers than men of both informal employment (28.9 vs 27.8 percent in 2023) and self-employment (32.2 vs. 31.6 percent in 2022), but much higher number of them are in part-time employment when compared to male workers (24.3 vs. 10.5 percent, in 2022) (ILO 2022).

Scope of the project

In this context, the project “Leveraging social protection systems to support parents to provide the best care for their children”¹ was implemented between June 2023 and August 2024.

In general, the project aimed to enhance the understanding of unequal childcare practices in Mexico and identify potential avenues for improving the available support to workers with family responsibilities. To do so, the project produced a background paper mapping Mexico’s legal and policy framework, including the overall national social protection system, with specific attention to schemes related to maternity, paternity, child benefits, and services available to workers’ with family responsibilities.

The research carried out can contribute towards the development of evidence base on the subject matter, which is key for advocacy efforts and meaningful social dialogue in the context of reform processes aimed at increasing the support for workers with family responsibilities, while fostering gender-equal childcare practices. As such, the project has worked to increase awareness on the impact that social protection policy

¹ For more information about the project, see <https://www.social-protection.org/gimi/Contribution.action?id=937>

reform can have by adopting gender-responsive provisions.

Within a framework of coordinated policy approaches, rights-based, gender-responsive social security systems that are in line with international social security standards can play an important role in addressing gender inequalities and facilitating the reconciliation of family and work responsibilities. This can be achieved through access to services or by guaranteeing income security and leave that allow workers with family responsibilities to distribute caregiving tasks more equitably, without having to face unfair trade-offs in the professional or personal spheres.

Thus, in light of international labour standards, especially those related to social security and those concerning workers with family responsibilities, this brief pays special attention to how social protection systems can contribute to the reconciliation of work and family responsibilities while promoting gender equality. To do so, it provides a general overview of current national legislation and practices in Mexico regarding social protection, notably maternity protection, paternity benefits, parental benefits, and child-care policies, and identifies some gaps that could be addressed².

Finally, it is important to emphasize that social protection systems and policies are one of the fundamental pillars for achieving the reconciliation of family and work responsibilities, but they are not the only ones. Therefore, it is crucial that states address the issue comprehensively and work in other areas concerning labor policies (employment, wages, non-discrimination), care policies, education, public health; as well as economic policies that ensure the equity and sustainability of the systems and services implemented or to be implemented, etc. The contribution of gender-sensitive social protection systems is vital, but it can only be effective if closely coordinated with a broader spectrum of legislative, policy, and social efforts.

International social security standards of the ILO: Guidelines for ensuring adequate support to workers with family responsibilities

International labor standards contain a broad body of norms in the field of social security that constitute the international reference framework for the development of adequate, comprehensive, sustainable, rights-based social protection systems, based on risk pooling and collective financing, and under the primary and general responsibility of the State.

To ensure adequate support from social protection systems for workers with family responsibilities so that they can reconcile such responsibilities with their work responsibilities, the conventions and recommendations detailed in Table 1. are particularly relevant.

Table 1. Relevant ILO conventions and recommendations.

Thematic	Convention	Recommendation
Social security	Social Security (Minimum Standards) Convention, 1952 (No. 102)	
	Maternity Protection Convention, 2000 (No. 183)	Maternity Protection Recommendation, 2000 (No. 191)
		Social Protection Floors Recommendation, 2012 (No. 202)
Workers with family responsibilities	Workers with Family Responsibilities Convention, 1981 (No. 156)	Workers with Family Responsibilities Recommendation, 1981 (No. 165)

Workers with family responsibilities

The reconciliation of family and professional duties, with a gender equality lens, has been a constant concern of the ILO. Since 1919, various instruments have been adopted to promote equality of opportunity and treatment in

² This brief is based on background research that maps the current legal framework of social security in Mexico.

employment, as well as equal remuneration for work of equal value, and efforts have been made to establish a regulatory framework that allows people to assume their responsibilities in both the work and personal spheres without having to sacrifice either, regardless of their gender.

The Convention on Workers with Family Responsibilities, 1981 (No. 156) and the accompanying Recommendation No. 165 are framed within this vision. Convention No. 156 establishes that family responsibilities may arise from the worker's dependent children or other members of their immediate family who need their care or support and recognizes that caregiving responsibilities can affect opportunities to obtain paid employment, to prepare for economic activity, and to enter, participate in, and advance in it.

In order to counteract the negative impacts that family responsibilities can have on working life, Convention No. 156 establishes that States must adopt measures to ensure that workers with family responsibilities can perform their work, as far as possible, without conflict between their family and professional responsibilities. To this end, States must ensure non-discrimination of workers with family responsibilities in the workplace, consider the special needs they may have regarding working conditions and social security protection, implement childcare or family assistance services, and ensure that family responsibility does not, in itself, constitute a justified cause for termination of employment. Additionally, States must guarantee the vocational training of these workers, whether to integrate, remain, or reintegrate into the labor market.

To facilitate the implementation of these obligations by States, Recommendation No. 165 provides detailed guidelines. Thus, States should:

- progressively reduce working hours and limit overtime;
- introduce more flexibility in the organization of working hours, rest periods, and vacations;
- consider the special needs of workers when organizing shift work and assigning night work, as well as in situations of relocation to another locality;
- ensure that part-time workers receive benefits at least proportional to those granted to full-time workers and guarantee that they have the option to move to full-time employment or return to it;

- implement parental leave, as well as leave in case of illness of dependent children or other immediate family members, preserving their rights and preferably under social security schemes.

Box 2. Workers with Family Responsibilities Convention, 1981 (No. 156), and Recommendation, 1981 (No. 165)

The Workers with Family Responsibilities Convention, 1981 (No. 156), directs Member States to take the needs of workers with family responsibilities into considerations when it comes to social security “with a view to creating effective equality of opportunity and treatment for men and women workers”.

Social protection and family responsibilities

Gender-sensitive social protection systems can facilitate the reconciliation of work and family responsibilities by ensuring caregiving time for both men and women without losing employment, while guaranteeing income security and access to services (care and/or medical assistance). Specifically, (1) benefits, (2) paternity benefits, (3) family benefits, and (4) parental benefits are fundamental protection mechanisms to achieve this goal.

Maternity protection

By ensuring a protection for women, including employment and income security guarantees, and access to health services, maternity protection enables women to navigate pregnancy, childbirth, and subsequent childcare needs in a safe and dignified manner (ILO 2021). Its positive contribution to the reconciliation of family and work responsibilities is threefold: (1) it prevents loss of income and employment as a consequence of maternity, thus allowing women to maintain their economic autonomy and ensure their continued participation in the labour market; (2) it guarantees access to medical care, which is particularly important during and after pregnancy to promote maternal health and wellbeing; (3) it gives women the time to recuperate and consequently to restore their ability to work, while adapting to new changes and providing care for their children.

As a fundamental pillar of social protection, maternity protection and leave benefits are enshrined in the international social security standards (ISSS). Social Security (Minimum Standards) Convention, 1952 (No. 102),

as the most widely ratified international convention on social security, represents a crucial reference point for the establishment of maternity protection, for which it outlines minimum standards. These are the provision of medical care, comprising pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives; and the hospitalization where necessary throughout the contingency, and cash benefits, equal to at least 45 per cent of reference earnings, and for a minimum period of twelve weeks unless national legislation imposes or authorizes a longer period of work abstention, in which case it must be covered for the entire period.

Maternity Protection Convention, 2000 (No. 183), the most up-to-date standard dealing specifically with maternity protection and leave benefits, builds on those minimum levels and articulate a more expansive systems of benefits and protections. Convention No. 183 elaborates on the conditions of health protection, including on the responsibility of the state to ensure that “pregnant and breastfeeding women are not obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child” (Article 3). Similarly, Article 4 entitles women to a period of maternity leave of not less than fourteen weeks, six of which are compulsory after childbirth, unless otherwise agreed at the national level. Article 6 of the Convention states that maternity leave must be provided in conjunction with cash benefit of a sufficient level for the woman to maintain herself and the child, set at two-thirds of previous earnings. States must ensure that the conditions required to qualify for cash benefits can be met by the vast majority of women and provide adequate social assistance benefits for women that do not meet the requirement under other schemes is recommended. Additionally, medical benefits must be guaranteed to the mother and her child, which should include prenatal care, assistance during childbirth, and postnatal care, as well as hospitalization when necessary.

Importantly, as per Article 6 comma 8, maternity benefits should take the form of either compulsory social insurance, financed through contributions, and/or be financed through general revenues, and specifically not be set up as an employer-liability scheme. The reason for that is to avoid shifting the financial burden of financing an employee’s potential maternity leave directly and solely onto the employer, which creates negative incentives for their hiring, exacerbates gender-based discrimination in employment, and reduces women’s access to decent work

opportunities and ultimately undermines their economic agency.

This is further recognized and expanded on through Articles 8 and 9, dealing specifically with employment protection and non-discrimination, which include provisions that protect women against their employment being terminated due to pregnancy, that guarantee their right to return to the same or an equivalent position following a period of maternity leave, that prohibit prospective employers to require women to produce a pregnancy test as part of the recruitment process. Finally, Article 10 provides the right of working women to daily breaks to breastfeed their children such breaks are considered effective working time and therefore must be remunerated accordingly

Maternity Protection Recommendation, 2000 (No. 191) expands on Convention No. 183 by recommending a minimum duration of 18 weeks for maternity leave benefits and a replacement rate, where possible, of 100 per cent of previous earnings. In terms of strengthening the support to workers with family responsibilities and promoting their equitable distribution within the household, Recommendation No. 191 encourages provisions for maternity leave to be transferred to the father in case of death, sickness or hospitalization of the mother, so both her and the child receive the care they need. This is, however, only in cases when women giving birth also have access to sickness benefits and medical care. Additionally, it urges States to consider the leave period as a period of service for the determination of mothers’ rights, including those related to social security. Finally, Recommendation No. 191 promotes the implementation of paid parental leave, for either the mother or the father, during the period following the expiration of maternity leave.

Finally, the Social Protection Floors Recommendation, 2012 (No. 202) guides States to ensure, within the framework of social protection floors, essential health care and basic income security for people of working age who cannot earn sufficient income, particularly in the case of maternity.

- Maternity protection and leave benefits are conceived as essential social protection instruments to achieve several important objectives towards support for equitable parenting. On one hand, they shield mothers from having to face strains to their financial wellbeing and health, by ensuring a level of adequate protection to the contingency of pregnancy and childbirth, so that they can safely sustain themselves, recover, care for their child, and eventually re-enter the workforce on a more equal footing.
- On the other hand, as recognized by the standards and Convention No. 183 in particular, maternity protection can be designed as to contrast discrimination against women in the labour market and the workplace, therefore increasing their access to decent work opportunities and their ability to provide for their families throughout their lives.

Paternity leave benefits

Paternity leave benefits can make the paternal duty of care effective and promote a more equitable distribution of childcare work within the home. Specifically, paternity benefits: (1) allow fathers to exercise their duty and right to care for their children, with important benefits to their development; (2) create the conditions, and incentives, for fathers to contribute to parenting, childcare, and other household work; (3) by rebalancing family responsibilities among both parents, they reduce the burden placed on women and improve their access to and standing in the labour market; and (4) they can reshape cultural perceptions around women being the primary caregivers, contributing to gender equality in the long term (ILO 2014; Addati, Cattaneo, and Pozzan 2022).

No international social security standard explicitly deals with paternity leave benefits, but the 2009 International Labour Conference (ILC) Resolution on gender equality in decent work mentions paternity leave as a social protection policy instrument that can address long-standing gender imbalances in childcare work. This was reaffirmed by the ILC in 2021, which identifies paternity leave benefits as a central component to designing gender-responsive social protection systems. Moreover,

more and more countries are integrating this protection into their national social security systems.

Paternity leave benefits should meet, where possible, the same adequacy standards and follow the same financing logic as statutory maternity benefits, while still accounting for the difference in their underlying rationales. In principle, in a gender-responsive social protection system, discrepancies between maternity and paternity benefits should exist only insofar as they result from acknowledging that the biological contingency of pregnancy and childbirth requires a higher level of protection, including medical protection, and not from the assumption that women are the default caretakers. Paternity leave benefits being financed through either a contributory system or public funds, as opposed to through employer liability, is crucial to increase the likelihood of take up and reduce potential stigma and societal obstacles around utilisation (Jordan et al. 2014)

- Implemented in conjunction with strong maternity protection and leave benefits, paternity benefits hold the potential of reinforcing the support the social protection system can offer to workers with family responsibilities, allowing both parents to actively participate in childcare at a critical stage of the child's development, while more comprehensively promoting gender equality in the household, and consequently advancing gender equality in the labour market and in the workplace.

Parental leave benefits

Parental leave benefits are an important tool for reconciling family and work responsibilities as they allow working parents to dedicate themselves to the care of their young children beyond the period covered by maternity and paternity, and especially in periods where children require increased care, such as sickness, or their family responsibilities are increased. These have a range of positive outcomes for workers with family responsibilities, including by (1) extending and expanding the level of protection on which families can rely, allowing workers to more easily reconcile their jobs and role as parents throughout childhood; by (2) when the right is exercised by the father, the burden of caregiving that generally falls on women can be reduced, which in turn

leads to better participation of women in the labour market and promotes equitable parenting practices. (Addati, Cattaneo, and Pozzan 2022); and (3) when maternity and paternity leave are restrictive, parental leave benefits can provide protection to categories of working parents that are more frequently excluded from such benefits, including adoptive and same-sex parents.

The Workers with Family Responsibilities Recommendation, 1981 (No. 165), and the Maternity Protection Recommendation, 2000 (No. 191) recognise parental leave benefits as important instruments of support to working parents. Therefore, they urge States to implement parental leave for the father and/or mother after the expiration of the paternity and maternity leave periods, respectively, allowing them to retain their employment and the rights derived from it. Although these recommendations do not prescribe particular design features around conditions, duration or amount of the benefits, within the framework of the fundamental principles of international social security standards, parental leave benefits should be adequate, inclusive, collectively financed, and ensure equal treatment and opportunities between men and women.

In principle, parental leave benefits are available to both parents, but in reality, women are more likely to actually utilise these benefits due to widespread cultural norms that attribute them the role of primary caregivers to their children and families. In fact, when parental leave is designed to be very long, paid as a low share of reference earnings, and transferrable between parents, it tends to produce adverse labour market and employment participation effects for women, resulting in lower employment rates, lower pay, and slower career progression (ILO 2019). To maximise gender equality outcomes, these potential negative impacts should be accounted for and addressed in the design of benefits, as nationally relevant. An effective policy combination in this regard could be to combine parental leave benefits with the establishment of strong childcare service systems, or to provide for an equitable shared distribution of parental leave between both parents.

Family benefits and childcare services

An essential set of benefits to support working parents and their families is comprised of child benefits and childcare services. The former more commonly refer to cash transfers or tax credits, but can also include the provision of in-kind benefits. The aim of child benefits is

promoting the long-term wellbeing of children, through the reduction of child poverty and the increase in their access to healthcare, nutrition, quality education, water and sanitation. Child benefits provide an important form of support to households, by strengthening their ability to meet associated costs and unforeseen shocks to their income, and they have documented, positive effects for poverty alleviation, especially for poorer, more rural households (ILO, UNICEF, and Learning for Well-Being Institute 2024). Therefore, they can play an important part in alleviating the cost and burden of childcare, currently overwhelmingly borne by mothers, and equalising access across households to crucial services for child development.

Family and child benefits, as one of the constituent branches of social protection systems, are featured in the main ILO international legal instruments regarding social protection, such as in the Social Security (Minimum Standards) Convention, 1952 (No. 102). Convention No. 102 sets out the minimum standards for child benefits, referred in it as family benefits, to be disbursed periodically in the form of payments or in-kind transfers (food, clothing, housing, etc.) to qualifying employees and residents. Social Protection Floors Recommendation, 2012 (No. 202) reiterate the need to provide basic income security for children at least at a nationally defined minimum level.

Childcare services, instead, comprise publicly provided services commonly targeted at children below the age of three, including early childhood educational development, as well as pre-primary education programmes for children between the age of three and primary education age.

Both family benefits and care services help workers balance their professional and family lives, as (1) they absorb part of the childcare burden that would normally fall on parents, and disproportionately on women, and thus facilitate the return and retention of workers with family responsibilities in their jobs; (2) they protect workers with family responsibilities from losses in employment or the need to resort to part-time or precarious work and consequently contribute to their income security; and (3) reduce the economic impact of accessing childcare services on the household economy and therefore facilitate access to these services.

The Convention on Workers with Family Responsibilities, 1981 (No. 156), requires States to adopt measures to develop or promote community, public, or private services, such as childcare and family assistance services.

For its implementation, Recommendation No. 165 urges States to provide these services free of charge or at a reasonable cost corresponding to the economic capabilities of each worker and to ensure they are duly regulated and supervised by the competent authorities. Additionally, according to the Recommendation on the Transition from the Informal to the Formal Economy, 2015 (No. 204) these services should take into account informal workers.

Country case study: Gaps and opportunities in Mexico to facilitate the reconciliation of family and work responsibilities through the social protection system

General overview of the contributory social security system

The contributory social security system in Mexico is mainly composed of three subsystems, namely, the subsystem of the Social Security Law, which covers workers protected by the Federal Labor Law and is administered by the Mexican Social Security Institute (IMSS); the subsystem of the Law of the Institute of Security and Social Services for State Workers, which covers workers of the Powers of the Union, decentralized organizations, autonomous bodies, and public institutions in general, managed by the Institute of Security and Social Services for State Workers (ISSSTE); and the social security subsystem of the Mexican Armed Forces, which covers workers of the Army, Air Force, and Navy, administered by the Social Security Institute for the Mexican Armed Forces (ISSFAM).

In the three subsystems, the scope of material protection is similar; that is, the three subsystems generally cover the same social risks. However, the subsystem of the Social Security Law presents certain differences depending on the type of scheme to which the protected persons are affiliated, that is, between the mandatory regime and the voluntary regime (see Annex 1).

However, given that this report is limited to studying the social protection mechanisms that can facilitate the reconciliation of family and professional life for workers with family responsibilities, the analysis will focus on maternity benefits, paternity benefits, nurseries and social services, as well as family allowances provided for in the laws governing the aforementioned subsystems.

Table 3. Benefits of the Social Security Subsystems in Mexico to Facilitate the Reconciliation of Family and Professional Responsibilities

Type of Benefit/Protection	IMSS	ISSSTE	ISSFAM
Maternity benefits	☑	☑	☑
Paternity benefits	☑	☑	☑
Benefits/Care leave	☑	☑	☑
Childcare services	☑	☑	☑
Family benefits and other benefits	☑	☑	☑

Source: Own elaboration based on the Working Document prepared within the framework of the project.

Maternity protection and cash benefits: obstacles to accessing this right in practice.

In Mexico, Article 170 of the Federal Labour Law and Chapter IV of the Social Security Law establish the right of women to a 12-week paid leave period, with at least two to be taken ahead of the expected delivery date, equal to 100 per cent of previous earnings and financed through a social insurance model. Maternity protection in Mexico.

These provisions align with the minimum social security standards established by Convention No. 102 regarding the duration of monetary benefits (12 weeks) and their adequacy (45% of previous earnings). However, compared to standards that guarantee a higher level of protection, the duration of maternity leave is shorter than the 14 weeks prescribed by Convention No. 183 and the 18 weeks established by Recommendation No. 191. Nevertheless, regarding the sufficiency of the benefit amount, national legislation would align with the advanced standard that requires a monetary benefit equivalent to at least 66.66% of previous earnings. Additionally, national legislation guarantees legal protection against the threat of dismissal and the right to return to the same position at the end of maternity leave.

However, the contributory requirement to access the benefit, set at 30 weekly contributions paid during the previous 12 months, can be difficult to meet for women

with occasional, seasonal, or part-time jobs. Additionally, it is important to note that maternity protection (cash benefits) in Mexico only applies to employees. Thus, self-employed women, including those in the informal sector, do not have access to maternity monetary benefits, not even to basic income security levels provided under social protection floors. In the case of women employees that do not meet the contributory requirement, the Social Security Law indicates that the cost of maternity cash benefits during leave is to be borne entirely by the employer. This, in practice, leads to adverse employment outcomes for women in Mexico, who are therefore perceived as representing a higher “labour cost” for companies, therefore creating a further obstacle to their participation in the labour market.

Paternity benefits, parental leave and shared family responsibilities: persisting gaps and imbalances.

Within Mexico’s regulatory framework, only a basic level of support to men balancing professional and family responsibilities is provided by the Federal Labour Law (Art. 132), amounting to five days of employer-financed paid paternity leave. Firstly, while this places Mexico on the relatively short list of countries that do provide some form of paternity leave, the duration of the benefit is inadequate to meaningfully support male workers with family responsibilities, below the global average of nine days and shorter than the 12-week long maternity leave, amounting to a “gender leave gap” of more than 11 weeks (ILO 2022).

Secondly, the protection mechanism based on personal and direct employer liability is not compatible with the fundamental principle of collective financing of benefits, whether through contributions, taxes, or a combination of both, as enshrined in international social security standards. It is also not compatible with other fundamental principles such as the general and primary responsibility of the State over the social security system, the predictability of benefits, and the sustainability of the system.

Furthermore, employer-liability schemes tend to lead to low take-up rates due to the perceived labour cost placed on the employer, which, in the context of persisting socio-cultural norms and traditional gender roles, translate to only 11 per cent of men in Mexico effectively utilising their paternity leave. Additionally, due to the inherent requirement of workers being in a contractually defined

employee-employer relationship, entire categories are completely excluded, such as the self-employed and those employed in the informal economy.

Therefore, paternity leave benefits do not adequately provide the support that fathers need to reconcile their work with their family responsibilities, causing the burden to be placed on women, who themselves are often not covered by social insurance, thus reinforcing existing gender imbalances in the allocation of childcare and housework. These gendered assumptions on the role of women as the default caregiver within the household are reflected in, and reinforced by, the provisions of the Federal Labour Law, which has a dedicated chapter, Chapter V, to the needs of women in balancing work and family responsibilities, but does not have corresponding provisions for men.

Box 3. Reform efforts for the expansion of paternity leave in Mexico.

At the end of 2023, the Mexican Chamber of Deputies approved a reform to the LFT and the Federal Law of State Workers that extends the leave from 5 to 20 days (extendable up to 30 days total in case of complications of the newborn or mother during childbirth). The legislative process is still ongoing, as it still requires Senate approval. The Senate’s Labour and Social Security Commission is expected to review and issue an opinion on the bill approved by the Chamber of Deputies. If this committee approves the bill, it will be put to a vote in the full Senate.

Parental leave: a missing piece

Absent from Mexico’s social protection framework is any form of parental leave, which is recognised under Convention No. 156 as one of the social protection instruments that can strengthen the support to workers with family responsibilities. However, the Social Security Law (Art. 140) provides for a medical care leave aimed at allowing insured mothers or fathers to take time off from their work activities to care for their children under 16 years of age diagnosed with cancer, in case they require medical rest during critical periods of treatment or hospitalization according to the prescription of the treating physician, including, if applicable, treatment aimed at pain relief and palliative care for advanced cancer. This leave is collectively financed, and its amount is equivalent to 60 percent of the worker’s previous income.

It lasts from 1 to 28 days and can be requested as many times as necessary, with multiple leaves being issued over a maximum period of three years without exceeding 364 days of leave.

This provision aligns with Recommendation No. 165, which advocates for the adoption of specific leave for parents with children requiring medical care. However, the scope of medical care leave is quite limited, as it only covers situations involving the care of children under 16 years of age diagnosed with cancer. Therefore, parents of children aged 16 or older in the same situation do not have access to this benefit. Nor do parents of children of other ages affected by other serious illnesses, or workers with direct family members affected by cancer or other serious and disabling conditions that require the worker's care and support.

Family benefits and childcare services: important progress yet to be fully realized.

At the federal level, the government of Mexico operates a series of means-tested transfers to help poorer families meet the costs associated with raising children, the most significant of which fall under the Prospera programme, under the Department of Social Development, SEDESOL (UNICEF). Prospera targets households with an estimated per capita income below the nationally defined poverty threshold, with the stated objective of supporting them in meeting their nutrition, health, and education needs, reaching an estimated 24 per cent of the population (source).

In terms of childcare services available under the social protection system, article 5 of the Social Security Law establishes the right of insured mothers and fathers, widows and widowers, or divorced individuals with custody of their children to daycare services during the working day. Access to childcare services is provided for children of insured individuals from day 43 to their 4th year of life (Art. 206), and through which they are guaranteed nutrition, care, education, and recreation (Art. 203) via dedicated facilities to be made available throughout the country, conveniently located near population centres and places of work. Under Art. 207, the right to access childcare facilities is acquired as soon as a worker is affiliated with the mandatory social security scheme, and it is lost four weeks after the end of the affiliation period.

The daycare service includes so-called "integrative daycares" that provide specialized care services for children with mild or moderate disabilities provided by the IMSS. Their existence and operation can facilitate the reconciliation of family responsibilities and work obligations in situations of dual vulnerability, that is, in the case of workers with minor children with disabilities.

It is important to highlight that the ruling issued by the Second Chamber of the Supreme Court of Justice of the Nation in the case of amparo in review 59/2016 in 2020 extended the right to daycare services to male workers, which was previously recognized only for female workers underlying how gendered perceptions of women being primarily responsible for caring for children had been embedded into the social protection legal framework (ILO forthcoming). The expansion of childcare services under the mandatory social insurance scheme represents an important step towards more gender-equitable parenting practices, but it is also a measure that significantly expands its legal coverage, increasing the overall support to workers with family responsibilities regardless of gender, which aligns with the provisions of Convention No. 156 and Recommendation No. 165. In light of this ruling the IMSS has estimated that the potential demand for childcare services (1,977,781) far exceeds the current capacity. Indeed, with the current capacities, only 12.1% of childcare needs could be met (2022).

► The expansion of childcare services, and in particular the closure of the global childcare gap, has the potential of unlocking significant positive yields for the economy, and of furthering gender equality in the world of work. It is estimated that for every US dollar invested in the expansion of childcare, the return on investment for the global economy, in terms of GDP, would be of US\$3.76 by 2035, with all regions and subregions standing to benefit from it. Additionally, the global average of women's employment rate would reach 56.5 per cent by 2035 (up from 46.2 per cent in 2019), with a concurrent reduction in the global gender gap in monthly earnings from 20.1 per cent in 2019, to 8 per cent (ILO 2023)

Conclusions

Based on a mapping of the current national legislation on social security, specifically the contributory system, it has been identified that in Mexico there are some measures to facilitate the reconciliation of work and family life for workers with family responsibilities. These measures include maternity benefits, paternity leave, and leave for the care of children under 16 years of age diagnosed with cancer, as well as childcare services.

However, several gaps still persist that should be analyzed and addressed jointly through dialogue between the government, workers, and employers, as well as with representatives of civil society. These gaps concern the personal and material scope of protection of the social security system.

Regarding the personal scope of protection, the protected individuals are limited to salaried workers with family responsibilities, leaving workers engaged in atypical forms of dependent work (part-time, temporary, etc.) and self-employed workers without protection.

Regarding the material scope of protection, the biggest gap is the absence of parental leave or paid leave that allows workers with family responsibilities to care for their children or direct relatives by choice and without sacrificing their jobs. Additionally, although there are childcare services as part of the contributory system benefits, there are no care services for elderly relatives of workers with family responsibilities.

Within the framework of an open dialogue with all the involved stakeholders, the existing mechanisms could be improved, and the identified gaps could be bridged, based on international human rights standards, including international labour standards, and leveraging comparative international experience.

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► **Annex 1. Personal and Material Scope of Coverage under the Social Security Law**

Insurance/benefit	Mandatory scheme			Voluntary scheme		
	Workers (Arts. 20, 21 of the Federal Labor Law), members of cooperative societies, persons determined by the Federal Executive through the respective Decree, domestic workers	Workers in family industries and self-employed workers	Ejidatarios, communal landholders, settlers, and small landowners	Individuals who employ insured workers	Workers serving in the public administrations of the Federation, federal entities, and municipalities who are excluded or not covered by other laws or decrees as subjects of social security	
Employment injury (medical care benefits)	✓	-	-	✓	✓	✓
Employment injury (cash benefits)	✓	-	-	✓	✓	✓
Sickness and maternity (medical care benefits)	✓		✓	✓		✓
Sickness and maternity (cash benefits)	✓	-	-	-	-	-
Invalidity and life (including family benefits and assistance allowances)	✓	✓	✓	✓	✓	✓
Retirement	✓	✓	✓	✓	✓	✓
Unemployment in old age	✓	-	-	✓	✓	✓
Old-age benefits	✓	✓	✓	✓	✓	✓

Childcare services	<input checked="" type="checkbox"/>	-	-	-	-
Social benefits	<input checked="" type="checkbox"/>	-	-	-	-

Source: Own elaboration based on the Working Document prepared within the framework of the project.