

LABOR LEGAL PARITY FROM THE PERSPECTIVE OF THE SUSTAINABLE DEVELOPMENT GOALS

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— Abstract—

The Political Constitution of the United States of Mexican (2017), in Articles 1, last paragraph and 4, first paragraph, provides: "Any discrimination based on ethnic or national origin, gender, age, religion, sexual preferences or any other, violates human dignity and aims to nullify or impair the rights and freedoms of individuals" (p.3), "Men and women are equal before the law" (p.8), which implies that all forms of discrimination on the ground in Mexico are prohibited for a gender equality and the existence of legal equality.

In this context, the authorities in the area of competence have taken concrete steps to address human rights issues in the area of legal parity and also to gradually develop a change in public policy which has led to an increase in the budget for creation or strengthening of institutions to the modification of the legal framework based on the observance of human rights.

For its part, the United Nations, which is concerned with achieving a more inclusive world in which all sectors benefit from development, has promoted joint work with governments and civil society through the achievement of the Sustainable Development Goals.

Keywords

Labor legal parity; human rights; Sustainable Development Objectives.

In June 2011, the Political Constitution of the United Mexico States was reformed, incorporating the obligation of the authorities in all areas of dissemination, protection and defense of human rights, in accordance with the Universal Declaration of Human Rights.

In this regard, the General Assembly of the United Nations (UNGA, 2015) approved the agenda for development after 2015, **Transforming our world: the 2030 Agenda for Sustainable Development**, in order to all countries and stakeholders through a revitalized collaborative alliance with the private sector, civil society, the United Nations system and other entities to execute a plan of action in favor of people, the planet and prosperity eradicating poverty in all its forms and dimensions, creating conditions for sustainable, inclusive and sustained growth, shared prosperity and decent work, redirecting the world along the path of sustainability and resilience. These Sustainable Development Goals came into effect on January 1, 2016.

With the Sustainable Development Goals, it is intended to return to the Millennium Development Goals and achieve what it could not be achieved. It also aims to actually make the human rights happen to all people and achieve gender equality and the empowerment of all women and girls. The Objectives and goals are of an integrated and indivisible nature and combine the three dimensions of sustainable development: economic, social and environmental (UNGA, 2015, p.1).

Mexico, as a member of the United Nations, is responsible for compliance. This is how the present work aims to analyze the national regulatory framework on legal parity and labor human rights with its adaptation to international indicators and verify whether or not there is a well-structured public policy.

LABOR LEGAL PARITY AND HUMAN RIGHTS

Gender equity as a tool for mainstreaming constitutes an important advance to build a culture of respect, tolerance and non-discrimination.

The Political Constitution of the United States of Mexico (2017), in articles 1, last paragraph and 4th, first paragraph, states: "All discrimination based on ethnic or national origin, gender, age, religion, sexual preferences or any other that violates human dignity and has the purpose of nullifying or diminishing the rights and liberties of persons is prohibited." (p.3) "Men and women are equal before the law" (p.8). This implies that all forms of discrimination based on gender and the existence of legal equality are prohibited in the Mexican territory.

Hence, in the 2005530 registration isolated thesis issued by the First Chamber of the Supreme Court of Justice of the Nation (SCJN, 2014), it is considered that "The human right to legal equality not only has a formal facet or dimension or of law, but also one of a substantive or de facto nature, which aims to remove and/or reduce social, political, cultural, economic or any other obstacles that prevent certain individuals or social groups from enjoying or exercising in a real and effective way their human rights in conditions of parity with another set of people or social group" (p.647). The parity of treatment constitutes an affirmative action aimed at compensating for the disadvantageous situation in which certain groups have historically been found.

Consequently, the norms related to human rights will be interpreted according not only to the Mexican Political Constitution, but also to international treaties in this matter, favoring at all times the people the widest protection. This is how Mexico has expressed in various documents its commitment to the dissemination, protection and defense of women's human rights and equality of opportunities for gender.

In this regard, the United Nations Development Programme (UNDP) points out that one of the most frequent and silent forms of *violation of human rights is gender-based violence*; the United Nations Report in reference to *Goal 3 Promote gender equality and women's autonomy*, reveals that the positions held by women tend to be of lower rank, lower salary and worse working conditions; women with a good education have advanced and the proportion of women in management positions is increasing, but the majority continue in lower and less valued positions and face greater obstacles to achieve higher positions (United Nations, 2008, p.18).

Consequently, for the sustainability of societies will be necessary to recognize and guarantee the universalization of economic, social and cultural rights, or second generation human rights.

LEGAL PARITY WITHIN THE FRAMEWORK OF INTERNATIONAL AND NATIONAL LABOR LEGISLATION.

Mexico entered as a member of the International Labor Organization (ILO) on September 12, 1931, date from which it has signed international agreements; among them, 111, regarding discrimination.

For the purposes of ILO Convention 111 (1958), the term discrimination implies: "Any distinction, exclusion or preference based on reasons of race,

sex, religion, political opinion, national extraction or social origin that has the purpose of nullifying or altering equal opportunities or treatment in employment or occupation" (Article 1).

For the purposes of ILO Convention 111 (1958), the term discrimination implies: "Any distinction, exclusion or preference based on reasons of race, sex, religion, political opinion, national extraction or social origin that has the purpose of nullifying or altering equal opportunities or treatment in employment or occupation" (Article 1).

This is how in the last Mexican labor reform of November 2012, can be found in articles 2, 3, Bis, 47, fraction VIII, 51, fraction II, 56, 132, fraction XXVII and 170 the concept of decent work, the equality of opportunity and treatment, substantive equality, non-discriminatory distinctions, non-discrimination on grounds of sex, marital status, broadens the causes of maternity leave and incorporates adoption reasons, non-labor violence, sexual harassment and harassment labor (LFT, 2013).

Therefore it is important that our labor authorities must resolve to a true known, good faith kept and with appreciation of the facts in conscience, as seen in the Isolated Thesis 2002752 of the SCJN (2013), item:

DISMISSAL UNJUSTIFIED BY REASON OF PREGNANCY. IF THE EMPLOYER EXCEPTS AND PRESENTS THE WAIVER OF THE WORKER, IT IS HIS DUTY TO PROVE SUCH EXTREME AND OF THE BOARD'S TO RESOLVE FROM A GENDER PERSPECTIVE, AND TO NOT ONLY CONSIDER WHAT WOULD HURT HER.- Articles 1 and 11, numeral 2, subparagraph a) of the Convention on the Elimination of All Forms of Discrimination against Women prohibit the dismissal of a woman because of pregnancy, since it is considered a form of discrimination against her, understood as a distinction, exclusion or restriction based on her gender as its object or as a result to undermine or annul the recognition, enjoyment or exercise of human rights and fundamental freedoms... Consequently, when a worker demands an unjustified dismissal because of her pregnancy and the employer is excepted, arguing that she quit her job to dedicate herself to the care of the child, it is up to him to demonstrate such an extreme, and if she offers to do so, the Board must consider it from a perspective of equality (non-discrimination) whether it is credible that a pregnant worker resigns her job, because, otherwise, it does not resolve from a gender equity perspective, that is, considering the claims of a working woman pregnant, since it only considers what is harmful to her (p.1353).

THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT ON LABOR LEGAL PARITY IN MEXICO

The Universal Declaration of Human Rights, the International Treaties on Human Rights and the Millennium Declaration are important documents on which the 2030 Agenda for Sustainable Development was based in order to aspire to a world in which the citizens of each country that integrate enjoy sustained, inclusive and sustainable economic growth, decent work, social development, the eradication of poverty and hunger for all; a world in which the national environment, democracy, good governance and the rule of law are respected in accordance with the favorable international environment (UNGA, 2015, p.4).

The goals of the Sustainable Development Goals that are directly related to the labor legal parity, foreseen in the international instruments and treaties, are:

Goal	Content
4.4	Significantly increase the number of young people and adults who have the necessary skills, particularly technical and professional, to access employment, decent work and entrepreneurship
5.4	Recognize and value unpaid care and domestic work through public services, infrastructures and social protection policies, and promoting shared responsibility in the home and family, as appropriate in each country.
8.5	Achieve full and productive employment and decent work for all women and men, including young people and people with disabilities, as well as equal pay for work of equal value.
8.8	Protect labor rights and promote a safe and risk-free work environment for all workers, including migrant workers, particularly migrant women and people in precarious employment.

In the 2030 Agenda, unanimously, the signatory countries agree that the achievement of the Sustainable Development Goals can only be achieved by respecting the national normative margin and the norms of international law.

In Mexico as well as gradually and progressively, based on the progress of the Millennium Development Goals, continues with the constitutional and regulatory reforms that allow internal regulations to be compatible with the Sustainable Development Goals and the public policies that govern in the matter.

From an analysis of articles 5 and 123 of the Political Constitution of the United States of Mexico, the Political Constitution of the State of Chiapas and the Federal Labor Law, the constitutional and legal reforms made by our Mexican legislative body are observed in order to adapt the regulatory framework for the observance of the Sustainable Development Goals:

Comparative Table

Sustainable Development Goals:	National Normativity
Significantly increase the number of young people and adults who have the necessary skills, particularly technical and professional, to access employment, decent work and entrepreneurship.	<p>Political Constitution of the United States of Mexico:</p> <p>Article 123...</p> <p>XIII. Companies, whatever their activity, will be obliged to provide their workers with training or coaching for the job. The regulatory law will determine the systems, methods and procedures according to which the employers must comply with this obligation.</p> <p>...</p> <p>Federal Labor Law:</p> <p>3rd Article...</p> <p>It is in the social interest to promote and monitor training, coaching for and at work, certification of labor competencies, productivity and quality at work, environmental sustainability, as well as the benefits that these should generate both workers and bosses.</p> <p>39- A, 39-C, 39-D, 39-E.</p> <p>Chapter III BIS. Of Productivity, Workers' Training and Coaching. Articles 153-A to 153-X.</p>
Recognize and value unpaid care and domestic work through public services, infrastructures and social protection policies, and promoting shared responsibility in the home and family, as appropriate in each country.	<p>Political Constitution of the State of Chiapas</p> <p>Article 5.- In the State of Chiapas it is guaranteed that:</p> <p>VI. The work of the woman in the home will be valued economically, so that in case of separation, cessation of concubine or abandonment; women have the right to household goods and to stay in the conjugal home, until their legal situation is resolved.</p>
Achieve full and productive employment and decent work for all women and men, including young people and people with disabilities, as well as equal pay for work of equal value.	<p>Federal Labor Law:</p> <p>2nd Article - Labor standards tend to achieve a balance between the factors of production and social justice, as well as promoting dignified and decent work in all labor relations.</p> <p>Dignified or decent work is understood as one in which the human dignity of the worker is fully respected; there is no discrimination due to ethnic or national origin, gender, age, disability, social condition, health conditions, religion, migratory status, opinions, sexual preferences or marital status; there is access to social security and a remunerative salary is received; continuous training is received to increase productivity with shared benefits, and optimal safety and hygiene conditions are in place to prevent occupational hazards.</p> <p>Dignified or decent work also includes unrestricted respect for the collective rights of workers, such as freedom of association, autonomy, the right to strike and collective bargaining.</p> <p>...</p>

Political Constitution of the United States of Mexico:**Article 123. ...**

XV. The employer will be obliged to observe, according to the nature of their negotiation, the legal precepts on hygiene and safety in the facilities of their establishment, and to adopt the appropriate measures to prevent accidents in the use of machines, instruments and work materials, as well as to organize it, in such a way that it is the greatest guarantee for the workers' health and life, and the product of conception, in the case of pregnant women. The laws will contain, for that purpose, the sanctions that come in each case.

...

Political Constitution of the State of Chiapas**4th Article...**

III. Respect for and protection of the human rights of migrants, including the right to health, labor rights, the right to public safety and the enforcement of justice.

...

Protect labor rights and promote a safe and risk-free work environment for all workers, including migrant workers, particularly migrant women and people in precarious employment.

Federal Labor Law:

Article 90.- Minimum wage is the smallest amount that the worker must receive in cash for the services provided in a work day.

The minimum wage must be sufficient to satisfy the normal needs of a head of family in the material, social and cultural order, and to provide for the compulsory education of the children.

It is considered of social utility the establishment of institutions and measures that protect the purchasing power of the salary and facilitate the workers' access to comforts.

RESULTS

The Federal Labor Law incorporated in article 2, second paragraph, regarding the international treaties that Mexico has celebrated and the observance of labor human rights, to promote Decent Work in the workplace, reinforcing the need to respect the dignity of workers in workplaces, general non-discriminatory working conditions, optimal safety and hygiene, continuous training for increased productivity, remunerative salary and protection of substantive equality, unrestricted respect for the collective rights of workers, elements that have been constitutionally recognized as human rights.

In this context, the National Development Plan 2013-2018 of the Government of Mexico, in its axis Mexico Prospero, Objective 4.3. Promote employment, Strategies 4.3.1. Strive for a balance between the factors of production to preserve labor peace; 4.3.2. Promote dignify or decent work; 4.3.3. Promote

the increase of productivity with shared benefits, employability and on-the-job training; and 4.3.4. To improve the systems and procedures for the protection of workers' rights, foresee as lines of action: promoting actions for the adoption of a dignify or decent work culture; promote respect for human, labor and social security rights; consolidate active training policies for work and during work; promote educational relevance, the generation of skills and employability. (DOF, 2013)

It is this tenor, the Government of the State with the objective of diminishing the gender inequality and promoting equal opportunities between women and men in the exercise of their rights, benefits, obligations and possibilities, inserted in the Chiapas State Development Plan 2013-2018, as a transversal policy and as public policy 2.2.6., to gender equality.

The State Development Plan (2014) also incorporated the strategies of the Agreement for Gender Equality signed on April 18, 2013, prioritizing the conjunction of the three branches of government and the participation of the municipalities and non-governmental organizations in defense of the women's rights through transversality in the planning and budgeting processes of public policies and legislative harmonization with a gender perspective for the economic and social development of women (p.99).

Among the actions carried out in line with these public policies, the State System for Equality between Women and Men was created and the legislative harmonization of the Law of Equality between Women and Men of the State of Chiapas, with the latest reforms of the General Law for Equality between Women and Men, emphasizing the signing of a collaboration agreement with the State Institute of Citizen Participation. (2nd Government Report, 2014, pp.128 -132).

CONCLUSION

The existing inequality and social exclusion reflect the absence of a well-structured public policy on the matter that allows the consideration of legal parity and human rights as a transversal and indispensable axis in the government project, requiring a formal and material institutional evaluation of public policies in accordance with international indicators, in such a way that the achievement of the Sustainable Development Goals will depend not only on the adequacy of the internal normative order to international policies, but also on their well-structured inclusion in public policies, plans and development programs.

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