

Employment Protection Legislation in Emerging Economies

Samir Amine (Universite du Quebec en Outaouais, Canada)

Release Date: February, 2018

Copyright: © 2018

Pages: 301

ISBN13: 9781522541349

ISBN10: 1522541349

EISBN13: 9781522541356

DOI: 10.4018/978-1-5225-4134-9

Hardcover: **\$156.00**
List Price: ~~\$196.00~~

E-Book: **\$156.00**
List Price: ~~\$196.00~~

Hardcover + E-Book: **\$188.00**
List Price: ~~\$235.00~~

Description

New developments in legislation have increased the availability of employment. These advances result in long-term improvement of economic and sustainable development.

Employment Protection Legislation in Emerging Economies is a critical scholarly resource that examines legislation relating to employment protection in developing economies and its impacts on unemployment, job creation, productivity, and the efficiency of the labor market. Featuring coverage on a broad range of topics, such as labor reform, job creation, and the social protection agenda, this book is geared towards academicians, practitioners, and researchers seeking current research on legislation relating to employment protection.

Topics Covered

The many academic areas covered in this publication include, but are not limited to:

- Employment Protection Legislation
- Job Creation
- Labor Market Regulations
- Labor Reform
- Portable Rights
- Self-Employment
- Social Protection Agenda

Table of Contents and List of Contributors

Search this Book:

[Reset](#)

Table of Contents	View Full PDF (/pdf.aspx?tid=197994&ptid=182747&ctid=15&t=Table of Contents)
Detailed Table of Contents	View Full PDF (/pdf.aspx?tid=197995&ptid=182747&ctid=15&t=Detailed Table of Contents)
Preface	View Full PDF (/pdf.aspx?tid=197996&ptid=182747&ctid=15&t=Preface)

Chapter 1 **\$37.50**

An Inventory of Employment Protection Legislation in France: A Preserved Past Primarily but an Uncertain Future (/chapter/an-inventory-of-employment-protection-legislation-in-france/197997) (pages 1-28)

Hervé Charmettant

This chapter presents an inventory of the employment protection legislation (EPL) in France. As shown by the OECD indicators, legal provisions have...

Sample PDF (/viewtitlesample.aspx?id=197997&ptid=182747&t=An Inventory of Employment Protection Legislation in France: A Preserved Past Primarily but an Uncertain Future)

Chapter 2 **\$37.50**

Employment Protection Legislation in Emerging Economies: A Critical Literature Review (/chapter/employment-protection-legislation-in-emerging-economies/197998) (pages 29-47)

Samir Amine, Wilner Predelus

With emerging economies facing significant lags in the use of information technology to improve their productivity and compete with industrialized...

Sample PDF (/viewtitlesample.aspx?id=197998&ptid=182747&t=Employment Protection Legislation in Emerging Economies: A Critical Literature Review)

Chapter 3

\$37.50

Regulating Occupational Health and Safety in EU and China: From a Comparative Law Perspective (/chapter/regulating-occupational-health-and-safety-in-eu-and-china/197999) (pages 48-76)

Kai Liu

Occupational health and safety (OHS) is an important aspect of the labour protection field. This chapter compares OHS legal regimes of China and EU...

Sample PDF (/viewtitlesample.aspx?id=197999&ptid=182747&t=Regulating Occupational Health and Safety in EU and China: From a Comparative Law Perspective)

Chapter 4

\$37.50

Economic Variations and Their Impact on Labor Legislation Throughout History in Argentina (/chapter/economic-variations-and-their-impact-on-labor-legislation-throughout-history-in-argentina/198000) (pages 77-98)

Andrea Isabel Franconi

Throughout history, Argentina has undergone a series of profound economic variations, which, as such, have produced a strong impact on labor...

Sample PDF (/viewtitlesample.aspx?id=198000&ptid=182747&t=Economic Variations and Their Impact on Labor Legislation Throughout History in Argentina)

Chapter 5

\$37.50

Labor Protection in Mexico: Recent Reforms and Future Challenges (/chapter/labor-protection-in-mexico/198001) (pages 99-122)

Jose Ernesto Rangel Delgado, Antonina Ivanova Boncheva

If one looks for a representative emerging economy to examine the different effects of labor reforms, Mexico provides an important case study. In...

Sample PDF (/viewtitlesample.aspx?id=198001&ptid=182747&t=Labor Protection in Mexico: Recent Reforms and Future Challenges)

Chapter 6

\$37.50

Brazil's Employment Regulation and Outsourcing: A Precarious Option (/chapter/brazils-employment-regulation-and-outsourcing/198002) (pages 123-139)

Roberta Ferme Sivoiella

This chapter analyzes the evolution of employment regulation in Brazil in order to understand the current moment that it is experiencing. In the...

Sample PDF (/viewtitlesample.aspx?id=198002&ptid=182747&t=Brazil's Employment Regulation and Outsourcing: A Precarious Option)

Chapter 7

\$37.50

Employment Protection in South Africa: An Analysis of Recent Labour and Social Security Legislative and Policy Developments (/chapter/employment-protection-in-south-africa/198003) (pages 140-156)

Avinash Govindjee

This chapter tests the existing (labour and social security-related) legislation against the South African constitutional framework, as well as...

Sample PDF (/viewtitlesample.aspx?id=198003&ptid=182747&t=Employment Protection in South Africa: An Analysis of Recent Labour and Social Security Legislative and Policy Developments)

Chapter 8

\$37.50

Employment Protection Legislation and Unemployment in Botswana (/chapter/employment-protection-legislation-and-unemployment-in-botswana/198004) (pages 157-191)

Happy Siphambe, Mavis Kolobe, Itumeleng Primrose Oageng

Botswana has experienced phenomenon economic growth and structural transformation since independence. Despite the achievement in terms of economic...

Sample PDF (/viewtitlesample.aspx?id=198004&ptid=182747&t=Employment Protection Legislation and Unemployment in Botswana)

Chapter 9

\$37.50

The Social Protection Agenda and the Burden of Responsibility and Sustainability: A Review of the African Dilemma (/chapter/the-social-protection-agenda-and-the-burden-of-responsibility-and-sustainability/198005) (pages 192-208)

Moses Adesola Adebisi

Social protection represents part of the global agenda of the International Labour Organization in its concerted attempt to improve and promote...

Sample PDF (/viewtitlesample.aspx?id=198005&ptid=182747&t=The Social Protection Agenda and the Burden of Responsibility and Sustainability: A Review of the African Dilemma)

Chapter 10

\$37.50

Employment Protection Legislation in Haiti: An Overview (/chapter/employment-protection-legislation-in-haiti/198006) (pages 209-221)

Samir Amine, Wilner Predelus

The merit of employment regulations in a market economy is often measured by their effectiveness in facilitating job creation without jeopardizing... Sample PDF (/viewtitlesample.aspx?id=198006&ptid=182747&t=Employment Protection Legislation in Haiti: An Overview)

About the Contributors

[View Full PDF \(/pdf.aspx?tid=198009&ptid=182747&ctid=17&t=About the Contributors\)](/pdf.aspx?tid=198009&ptid=182747&ctid=17&t=About%20the%20Contributors)

Index

[View Full PDF \(/pdf.aspx?tid=198010&ptid=182747&ctid=17&t=Index\)](/pdf.aspx?tid=198010&ptid=182747&ctid=17&t=Index)

Learn More

[About IGI Global \(/about/\)](#) | [Partnerships \(/about/partnerships/\)](#) | [Contact \(/contact/\)](#) | [Careers \(/about/staff/job-opportunities/\)](#) | [FAQ \(/faq/\)](#) | [Senior Management \(/about/staff/\)](#)

Resources For

[Librarians \(/librarians/\)](#) | [Authors/Editors \(/publish/\)](#) | [Distributors \(/distributors/\)](#) | [Instructors \(/course-adoption/\)](#) | [Translators \(/about/rights-permissions/translation-rights/\)](#) | [Copy Editing Services \(https://www.econtentpro.com/partners/referrer/2eeff007-a17a-e611-80c4-0cc47a0d221d?url=/copyediting\)](#)

Media Center

[Online Symposium \(/symposium/\)](#) | [Blogs \(/newsroom/\)](#) | [Catalogs \(/catalogs/\)](#) | [Newsletters \(/newsletters/\)](#)

Policies

[Privacy Policy \(/about/rights-permissions/privacy-policy/\)](#) | [Content Reuse Policy \(/about/rights-permissions/content-reuse/\)](#) | [Ethics and Malpractice \(/about/rights-permissions/ethics-malpractice/\)](#)



(<https://2018.alamidwinter.org/>)

(<http://www.facebook.com/pages/IGI-Global/138206739534176?ref=sgm>)

(<http://twitter.com/igiglobal>)



(<http://www.world-forgotten-children.org>)

Copyright © 1988-2018, IGI Global - All Rights Reserved

LABOR PROTECTION IN MEXICO: RECENT REFORMS AND FUTURE CHALLENGES

INTRODUCTION

Latin American countries performed well both in economic and social terms during the first decade of the twenty-first century (Cornia, 2014). To different extents, they experienced positive economic growth as well as a sharp decline of poverty and inequality (Lopez-Calva and Lustig, 2010). Nonetheless, the arrival of the international crisis and the resulting changes in external conditions severely affected the region (Fernandez-Arias and Montiel, 2010). However, governments have been able to implement countercyclical fiscal policy to cope with the negative consequences of the crisis (Martorano, 2014a).

Not all the Latin American countries achieved the same results. Mexico is an emblematic case and its experience highlights the crucial role played by initial conditions. Indeed, the worsening of fiscal conditions pushed the Mexican government to embark on a process of fiscal consolidation since 2010. As a result, the Mexican economy (growth and employment) recovered slowly and poverty sharply increased.

Mexico was hit by the financial crisis in late 2008 after almost a decade of sustained economic growth. Although the Mexican exports were more diversified by products (in comparison to other Latin American countries), they were more concentrated by destination since exports to the United States accounted for more than 70 per cent of total exports. Thus, the drop of GDP recorded by the United States in 2008 (-0.3 per cent) and 2009 (-3 per cent) negatively hit the Mexican economy.

Beyond this, the international turbulence provoked a reduction in the financial flows from rich economies to the rest of the world. Private portfolio flows (as percentage of GDP) decreased by 1.9 points in Mexico between 2007 and 2008; they went up around 4 points in the following year and sharply declined by more than 6 points from 2009 to 2011.

On the other hand, foreign direct investments (FDI) were much less volatile. Between 2008 and 2009, on average FDI dropped by 1.2 percentage points from 3.3 to 2.1 per

cent of GDP and slightly recovered in the following years. Mexico experienced a reduction of FDI by about 0.7 points over the period 2008 and 2009 and an increase by 0.3 points between 2009 and 2010 (CEPF, 2010). Mexico was also affected by the reduction of remittances that dropped from 2.6 in 2007 to 2 per cent of GDP in 2012.

These events generated important consequences. In particular, the unemployment rate rose by almost 2 points up to 5.5 per cent in Mexico (INEGI, 2016). The Mexican economy recorded a negative growth rate in the third quarter of 2008. The crisis reached its peak in Mexico in the first quarter of 2009 and the drop in GDP recorded was larger, though performance remained positive, at low values, from the second half of 2009.

This chapter explores the recent developments in the Mexican labor market and the labor protection normativity during the post-crisis period. The first part explores the impacts of the crisis on Mexican economy and the policy responses of the country to economic and financial effects. The second part assesses the changes in Mexican labor market and labor legislation, such as labor protection, medical insurance, old age unemployment, and labor-management relations. In the third part we pay attention to the future challenges in Mexican labor markets: Informal economy, minimum wage, flexible labor contracts, vulnerable businesses and decent jobs for higher education graduates. Finally, we present some final reflections.

1. IMPACTS OF THE CRISIS AND POLICY RESPONSES IN MEXICO

1.1 Mexico before the crisis

Notwithstanding the favorable external conditions, there are no doubts that a crucial contribution to the good economic and social performances of the 2000s was the adoption of a new economic model (Cornia, 2014). Indeed, the majority of Latin American countries implemented a set of fiscal and monetary policies that boosted economic development and promoted a sharp reduction of poverty and inequality (Cornia and Martorano, 2011).

The monetary policy was basically countercyclical. Indeed, “during periods of the bonanza, monetary authorities attempted to control the expansion in money supply, fall in interest rates and credit expansion triggered by export expansion and large financial inflows through an accumulation of reserves and sterilization” (Cornia, 2012: 26).

Mexico explicitly introduced an inflation targeting regime. The Mexican model targets an inflation rate of 3 per cent with a ± 1 percentage point tolerance range. Moreover, the country adopted a floating exchange rate regime that allows authorities to correct it “under exceptional circumstances”. As a result – during the last decade – inflation declined and remained at low levels in Mexico, while the exchange rate regime promoted stability and trade competitiveness (Martorano, 2014b).

With respect to fiscal policy, Latin American countries recorded positive results thanks to the ability to contain expenditure together with a growing capacity to mobilize revenue (Martorano, 2014a). As other countries in the region, Mexico was able to benefit from favorable terms of trade especially through state-owned companies operating in the export sector such as the Mexican *Pemex* (Cornia et al, 2011). Nonetheless, the capacity to generate revenue from taxes was very low. Mexico was the only Latin American country that recorded a drop in tax/GDP ratio by about 2 points to 8.8 per cent over the same period (Cornia and Martorano, 2012).

Many factors facilitated the growing ability of Latin American countries to mobilize revenue via taxation as the good economic conditions, the process of economic formalization, the introduction of new technologies and, last but not least, the increase of tax morale and reduction of tax evasion. This performance was also assured by fiscal reforms that generated the so called “silent revolution” (Lora, 2007). For example, a fiscal rule was introduced by the Mexican government in 2006 which set a zero target cash balance. Without doubt, this first generation of fiscal rules contributed to increasing the fiscal discipline in Mexico. However, they showed considerable limits during the recent crisis since they reduced the space for implementing countercyclical policy measures. Thus, Mexico partially reformed the rules in order to increase the fiscal space.

Fiscal sustainability was also assured by a sharp reduction of indebtedness and a rapid accumulation of international reserves. On average, the regional debt/GDP ratio decreased from 60 to 30 per cent between 2002 and 2007 (Martorano, 2014a). The Mexican debt/GDP ratio dropped by 8 points from 46 to 38 per cent over the same period (Table 1).

Table 1. Fiscal indicators in Mexico, 2007.

Primary balance (% of GDP)	Target primary balance (a)	Structural primary balance (b)	Required structural adjustment (a-b)	Public Debt (% of GDP)	Current Reserves (% of GDP)	EMBI Spreads
-0.51	0.83	-2.26	3.09	37.83	8.76	150

Source: Martorano (2014b)

1.2 Impacts of the financial crisis 2008

After almost a decade of sustained economic growth, Mexico was hit by the financial crisis in late 2008. Although the Mexican exports were more diversified by products (in comparison to other Latin American countries), they were more concentrated by destination since exports to the United States accounted for more than 70 per cent of total exports. Thus, the drop of GDP recorded by the United States in 2008 (-0.3 per cent) and 2009 (-3 per cent) negatively hit the Mexican economy.

Beyond this, the international turbulence provoked a reduction in the financial flows from rich economies to the rest of the world. Private portfolio flows (as percentage of GDP) decreased by 1.9 points in Mexico between 2007 and 2008; they went up around 4 points in the following year and sharply declined by more than 6 points from 2009 to 2011.

On the other hand, foreign direct investments (FDI) were much less volatile. Between 2008 and 2009, on average FDI dropped by 1.2 percentage points from 3.3 to 2.1 per cent of GDP and slightly recovered in the following years. Mexico experienced a reduction of FDI by about 0.7 points over the period 2008 and 2009 and an increase by 0.3 points between 2009 and 2010 (CEPF, 2010). Mexico was also affected by the reduction of remittances that dropped from 2.6 in 2007 to 2 per cent of GDP in 2012.

1.3 Policy responses to the crisis in Mexico

In Mexico, monetary policy has been accommodating. After the reduction of inflation pressures, the Central Bank cut interest rates by 375 basis points to 4.5 per cent during the first half of 2009. Financial conditions improved after 2008 thank also to external support. In particular, “in October 2008 the establishment by the U.S. Federal Reserve

of temporary liquidity swap facilities with the Banco de México of up to US\$30 billion (extended in February and again in June 2009); and the approval in April 2009 by the IMF of a flexible credit line arrangement, with no conditionality, of approximately US\$47 billion” (IMF, 2010; Ros, 2011: 174).

Yet, due to limited fiscal space, the Mexican stimulus package was smaller than in other Latin American countries (about 1.5 per cent of GDP in 2009). The Mexican authorities implemented several measures in different sectors. In order to boost economic recovery, the government promoted infrastructure spending, transfers to development banks, support to small and medium-sized enterprises, and to the export sector (OECD, 2009).

2. CRISIS AND EMPLOYMENT IN MEXICO

From November 2008 to January 2009, more than 541 thousand people lost their jobs in the urban areas of the country, representing an average of 5,885 dismissals per day, according to reports from the Institute Mexican Social Security (IMSS).

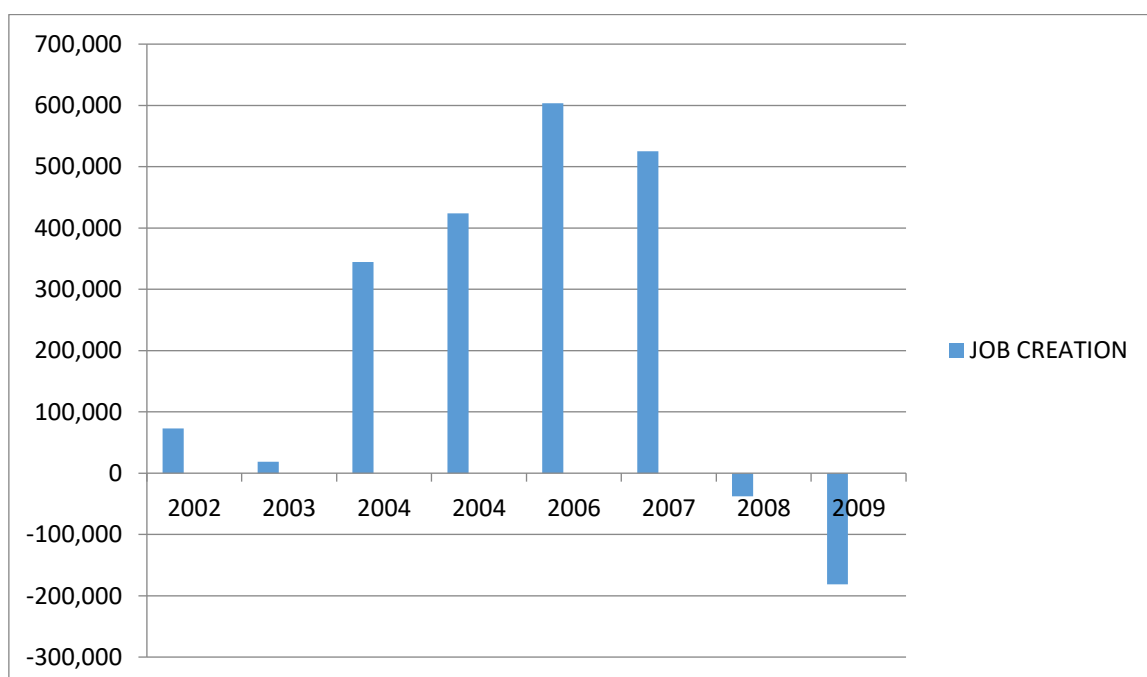


Figure 1. Total Jobs Created per Year (annual average).
Source: prepared by the authors.

2.1 Labor protection normativity

The Official Gazette of the Federation published on April 1, 1970 aspects related to labor protection, which coincide with a worldwide trend towards the transformation of the state-centered economic model towards greater market participation and a neoliberal economic model. These placed labor in a new working condition. This tendency was reinforced after the 2008 crisis giving rise to the Law of 2015, which in articles 47 and 51, shows legislation on both justified and unjustified dismissals.

The Federal Labor Law (DOF, 2015a) has been conforming in the format that it currently presents over the years. As of 2008, aspects related to labor flexibility and other issues related to layoffs have been consolidated. A new form of job hiring is established in Mexico. This is biased by the temporary jobs positioning in front of the permanent jobs, and definition of the retirement as obligation of the Mexican Institute for Social Security (IMSS).

Two types of dismissal are recognized in the current law, those without responsibility for the employer and those without responsibility for the worker.

Article 47 of the Law states fifteen causes of recess of the employment relationship without responsibility of the employer, while article 51 states ten causes of dismissal without responsibility of the worker. Likewise, the Law considers that the employer who dismisses the worker must give written notice, clearly referring to the conduct or reason that motivates the recess, and the date or dates in which they were committed. The notice must be delivered personally to the worker at the time of the dismissal or, to communicate it to the competent Conciliation and Arbitration Board, within five working days.

2.2 Medical insurance and maternity benefits

The Social Security Act of Mexico (DOF, 2015b) is clear in terms of attention to the status of women workers' maternity. In its Chapter I, article 11, Sec. II Expresses that the maternity and sickness care system is mandatory. Therefore, workers have health insurance during their contribution to Social Security.

It can be observed, first, that the social insurance service, whether due to illness or maternity does not present substantial changes with financial crises. However these may be influencing the disposition of financial resources for the granting of the service.

Maternity care in recent years is considering more flexibility for the exercise of the corresponding benefit. Thus, currently working mothers can choose to attend to the evolution of their pregnancy with an external doctor or to attend to the IMSS hospitals. Even from 1 December 2012 all male workers who become parents, whether for the birth of a child or the adoption of a minor, will enjoy a paternity leave of five working days with pay (DAO, 2015a, article 132 fraction XXVII Bis).

Since May 9, 2008, care for pregnancy was strengthened with the program "Healthy Pregnancy", aimed at ensuring the incorporation of all pregnant women into the social protection system. The maternal and perinatal health policies are enhanced in the prevention and promotion of maternal health. (National Development Plan and Maternal and Child Health Program). These measures have reduced maternal and infant mortality. According to INEGI (2015) indicators "Between 1990 and 2013, the mortality rate in children under five in Mexico decreased from 41.0 to 15.7 deaths per thousand live births, and the infant mortality from 32.5 in 1990 to 13.0 deaths per thousand live births in 2013.

Following INEGI (2015), "... in the international context, many factors have influenced the relative success in reducing child mortality. On the one hand, the advances that appear to have played an important role in health are access to mass vaccination, strengthening breastfeeding and regular medical checks, and in the case of education, the expansion of preschool. These areas have also influenced progress in infrastructure, sanitation, access to drinking water and coverage of health services. "

Because of the novelty of this benefit, there are doubts about its treatment in social security, so it is then indicated what the employer must do when granting these licenses to their employees. They should be given the same treatment as "leave with pay". As during the time when they will not attend to provide their services, the workers will receive their full salary, the employer must consider them as days actually worked and therefore pay the employer's contributions and corresponding credit repayments.

2.3 Old Age Unemployment Insurance

Retirement is one of the hot topics in complicated budget conditions, especially in an aging population, with descending birth rates.

The population pyramid of Mexico, for example, shows that 48.6% of the total population corresponds to men and that 51.4% correspond to women. But the most

interesting is that of this population about 30% corresponds to the economically active population usually considered between 12 and 60 years of age. Between 10 and 20 years of age, for example, there is a population bulge, known as a "demographic bonus", which begins to decrease; the age corresponding to youth is until 29, where the population is notoriously beginning to decrease. According to the data of 2015 the total population is descending.

Currently, two Social Security laws apply: the Law of 1973 and the Law of 1997. Any worker hired prior to 1997 will be favored by the 1973 law, while any worker who has been hired will find himself under social security. Severance pensions in old age are granted to the insured who, having reached the age of sixty and sixty-five years, respectively, has the minimum contribution period provided for by the Social Security Law, has caused a discharge from the Mandatory Regimen of Social Security, is deprived of paid work, and is in force in their rights. The minimum period of contribution provided for by the above-mentioned ordinances is: 500 weeks of contribution (1973) and 1250 weeks of contribution (1997) ((DOF 2015c).

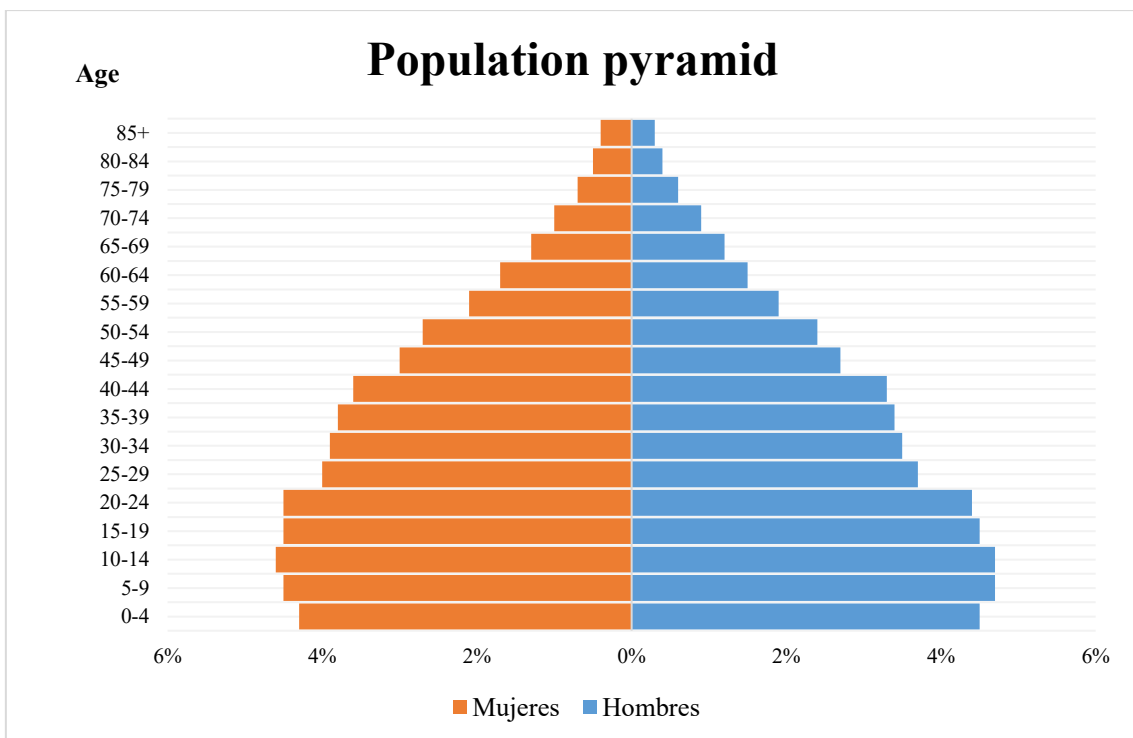


Figure 2. Population pyramid. Source: INEGI (2016)

2.4 Labor-management relations

The first labor union in Mexico was constituted in 1872. In the early 1930s, corporatism was in a frank process of consolidation with the emergence of the National Revolutionary Party founded by Plutarco Elias Calles. From there the workers' organizations are consolidated until the presidential term of General Lazaro Cárdenas, period in which the Mexican Constitution is applied with the greater reaches of social order.

In the 1970s, a new trend of development centered on market positions, particularly linked to economic neoliberalism, and pushed the unions towards a setback that placed them under different conditions that placed the defense of workers. Thus, by the year 2005 Mexico had 35 workers' organizations, generally classified as unions, confederations, associations, union groups or unions of workers.

In a new era of trade unionism, however, according to the Supreme Court of Justice of the Nation (UNAM, 2009: 13), "The union and the collective contract represent two of the most important labor law figures, in the defense of workers security, their rights and the obtaining of better labor conditions. "

Hence we can see that unionism is linked to the three periods mentioned above, showing different roles. A first period of construction and development, a second one of consolidation and achievements, and another of reversion and reshuffle to the new global market trends, in which the union's role has to adapt, showing a smaller influence the current economic processes.

Actually, labor-management relations are uneven in Mexico and union issues can be complex. Mexican labor law provides for collective bargaining; however, in practice, there is widespread use of so-called "protection contracts," which are collective bargaining agreements (CBAs) signed by the employers with unrepresentative unions, that in practice advocate more for the employer's interests than the workers.' These unions often enter workplaces even before enterprises open and without the knowledge of workers, and block the ability of independent unions to effectively and legitimately bargain collectively on behalf of workers. Many actors also note that the Mexican government wields unofficial veto power in the supposedly neutral and balanced tripartite arrangement of labor-business relations.

The large majority of labor unions in Mexico fall under the umbrella of the Confederation of Mexican Workers (Confederación de Trabajadores Mexicanos) or

CTM, which is comprised of approximately 11,000 labor unions, almost all of which could be considered “protection unions.” The CTM is the primary member organization in the labor arm of one of Mexico’s major political parties, the Institutional Revolutionary Party (*Partido Revolucionario Institucional*) or PRI. Workers have made numerous complaints of poor working conditions in maquiladoras and in the agricultural production industry. Low wages, poor labor conditions, long work hours, unjustified dismissals, lack of social security benefits and safety in the workplace, and lack of freedom of association were among the most common complaints. As a result, there have been several protests and boycott calls by farmworkers in northern Mexico, which have posed significant investment risks. In March 2015, farm workers in San Quintin, Baja California, walked out and staged protests to demand higher wages, access to social security, pay for overtime, parental leave, freedom of association, the right to collective bargaining, etc. Most recently in March 4, 2016, more than 3,500 workers went on strike in Lazaro Cardenas, in the state of Michoacán against steel maker ArcelorMittal in response to 300 alleged unfair dismissals and violations of their collective agreement (SDOIA, 2016). The strike affected the production of more than 8,500 metric tons of steel per day, and the Mexican labor authorities ruled that the strike was illegal.

In terms of labor dispute resolution mechanisms, the Conciliation and Arbitration Boards (CABs) in Mexico adjudicate all individual and collective labor conflicts. Although they have a tripartite structure with government representatives and equal numbers of worker and employer representatives, the CABs have been widely criticized as being biased in favor of management. The federal labor law sets out processes for dispute resolution over which the CABs preside, including a mandatory conciliation phase. If conciliation fails, the parties submit evidence and the CAB rules on the issue after a hearing. CAB resolutions are final, but a party may request an injunction, or ‘*amparo*’ to the Constitutional court. “*Amparos*” are offered on limited constitutional grounds.

2.5 Governmental initiatives to generate employment

To reduce the negative consequences related to the sharp increase of unemployment, the government tried to focus more on the generation of employment introducing several measures such as training and temporary jobs (Khanna et al, 2014). In particular, the

Program for Job Conservation (*Programa de Preservación del Empleo*) was established, the Temporary Program of Employment (*Programa Temporal de Empleo*) was extended by about 40 per cent with respect to the original plan, and the National Service of Employment (*Servicio Nacional de Empleo*) was strengthened (Valencia Lomeli et al, 2013). One example is provided by Gamez et al. (2014) analyzing the responses to the crises in the tourist sector in Los Cabos, one of the most famous Mexican resorts. In spite of experiencing a huge contraction (a loss of 250,000 or 25% of visitors in 2009), the reduction of employment in hotels of Los Cabos was not an immediate strategy to cope with the crisis. Almost 40% of hotels did not fire any of their employees and only 1 out of 5 fired 10% of their staff. That is, almost 60% of hotels kept their staff, although this was at the expense of the workers' income as a trade-off to keep their jobs. On the other hand, more than one third reduced their staff between 20–40% (Gamez *et al.*, 2014). One of the policies to increase the performance of the personnel was to enhance the skills and knowledge building and create opportunities to apply these skills and knowledge. These were complemented by delegating more responsibility to lower-level management and allowing personnel to have more control over their own work. Of course, introducing some financial or non-financial incentives was considered to be important.

Mexico does not have a proper unemployment benefits system, but during the crisis the government issued regulations to facilitate the withdrawal of savings from the mandatory individual pension accounts” (Robalino et al, 2014: 111 - 112). Moreover, coverage of the medical insurance and maternity benefits for dismissed workers was extended from two to six months (Valencia Lomeli et al, 2013). Lastly, via the Insurance for Old Age Unemployment (*Seguro de Cesantía en Edad Avanzada*) the government guaranteed a pension to elderly people (aged 60 years and more) who became unemployed and had contributed at least for 24 years (Freije et al, 2014).

Through the 2009 National Agreement to Support the Household Economy and Employment, the Mexican government implemented several measures to help households facing economic difficulties. First of all, a reduction of the energy costs (gasoline, electricity fees, etc.) was implemented. However, one of the most important measures to protect poor households and children was related to the changes implemented in the Opportunities Program (*Oportunidades*). First, the benefit was

increased. Second, the government promoted an expansion in coverage of the *Oportunidades's* program with support from the World Bank. Similarly, the coverage rate for other programs such as the Program on Food Support (*Programa de Apoyo Alimentario*) and the *Habitat* was extended. Overall, the cost of social protection measures was about 0.40 per cent of GDP (Valencia Lomeli et al, 2013).

In view of this situation, the Ministry of Labor and Social Welfare seeks to promote articulation among labor market actors to improve employment opportunities; Prepare reports and formulate programs to promote the occupation in the country, as well as to ensure their implementation; And to guide job seekers towards the vacancies offered by employers based on their training and skills, mainly serving the disadvantaged population, such as: young people between the ages of 16 and 29, people with disabilities, seniors, women , pre-liberated people, people living in extreme poverty and food, and forming part of the National System for the Crusade against Hunger (SNCcH), beneficiaries of *Prospera*, Social Inclusion Program and population that is addressed in the National Strategy for the Prevention of Adolescent Pregnancy. These activities include information on the supply and demand of employment to be linked according to the requirements of both parties.

Given the dismantling of value chains that has involved the new stage of economic construction in Mexico, other types of programs have been activated, such as the Temporary Employment Program, linked to the National Employment Service (Robalino et al, 2014: 111 - 112), which has, among other objectives: Promote and design mechanisms for monitoring the placement of workers, as well as designing, conducting and evaluating specific programs to generate employment opportunities for young people and vulnerable groups.

However, since 2010 worsening of the fiscal balance pushed the government to promote a fiscal adjustment process cutting some current expenditure (excluding social programs), levying new taxes or raising existing ones. In particular, “a new 3% levy was imposed on telecommunications (ECLAC, 2013).

In addition, the maximum individual and corporate income tax rate was raised temporarily from 28% to 30%; VAT was increased from 15% to 16%; and the tax on gaming and lotteries jumped from 20% to 30%. Levies on tobacco, beer and other alcoholic beverages were also raised temporarily” (ECLAC, 2010: 174).

Table 2. Mexico: Countercyclical Fiscal Measures.

Workfare (1)	Social Protection (2)	Fiscal Stimuli (3)
The temporary employment program at the federal level was expanded by 40% over what had been planned	Launch of the <i>Programa de Apoyo Alimentario (PAL)</i>	Public investments in infrastructures
Launch of Employment Preservation Program for protecting employment in vulnerable businesses	Expansion of <i>Oportunidades</i> Program.	Support to private sector

Source: Adapted from Powell (2012).

3. FUTURE CHALLENGES

3.1 The Informal Economy

The Mexican Social Security Institute (IMSS) reports the creation of 732, 000 formal jobs in 2016, the highest number of the last decade (IMSS, 2017). However, the Mexican Statistics Bureau (INEGI) estimates that 59 percent of the workforce is engaged in the informal economy (INEGI, 2016). In the formal economy, there is a general surplus of labor but a shortage of technically skilled workers and engineers.

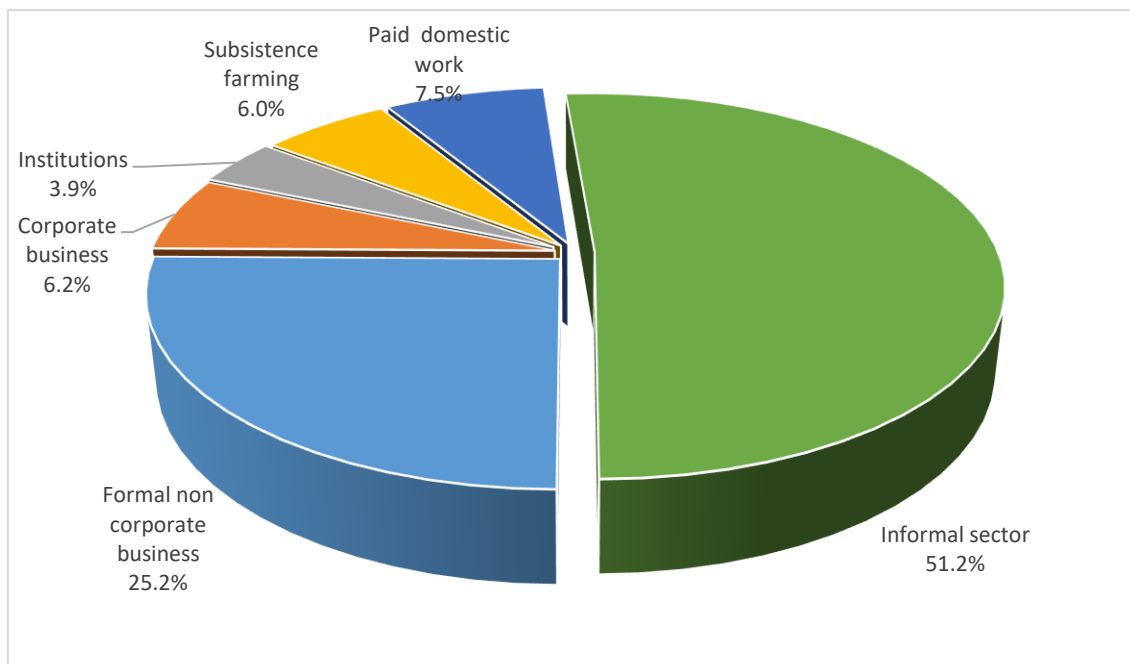


Figure 3 Percentage of unprotected labor by economic sphere.
Source: Prepared by the authors.

The informal economy, without labor protection, without benefits of any kind, which has only been favored by a comprehensive vision of medical care through Seguro Popular and other public healthcare institutions, has recently been considered a population in "Critical conditions of occupation", according to INEGI. This category reveals the rate of labor informality, which amounts to 57% of the total employed population for the first quarter of 2017.

Since the second quarter of 2008, INEGI reported the composition of unprotected labor according to the economic area, which can be seen in the following table, which shows the degree of inattention (informal) in the informal sector. This sector is not only affected by the lack of social protection, but also represents significant leaks in taxes for the government.

Table 3. Percentage of unprotected labor in total occupation.

Absolute amount of unprotected labor	23 543 656
Absolute amount of occupation	43 866 696

Percentage of unprotected labor in total occupation	53.67
--	--------------

Source: INEGI (2008).

3.2 Minimum Wage

Mexico is in the process of changing its labor laws and practices to bring them in line with international norms. Mexican manufacturing operations in the textile and garment sectors are experiencing stiff wage competition from Central America and India, but are gaining relative wage competitiveness with China in high technology sectors. As of January 1, 2016, Mexico's minimum wage was raised to MXN \$73.04 (USD \$4.10) per day, which continues to be less than a living wage in this OECD country (SDOIA, 2016). The tripartite National Commission sets the minimum wage each year.

Mexico works on the basis of a minimum wage that little or nothing reaches the support of the family economy and also in many cases Mexican citizens face the reality of working in low quality jobs and in conditions of occupational risk, Coupled all to conditions of corruption and social insecurity.

This is the reality of almost all economic sectors (according to INEGI): primary sector (agriculture, forestry, fishing and hunting); Secondary (extractive industry of electricity, manufacturing and construction); And tertiary, commerce, restaurants and accommodation services, transport, communications, mail and storage, professional services, financial and corporate services, social services, various services, government and international organizations, among others.

The total number of employees earning minimum wage , for example, in the primary sector amounts to 25.52% of the total employed population in the country in the first quarter of 2017; In the secondary sector a 61.37% percentage is detected; In the tertiary 12.60%, and others not specified 0.51% (INEGI, 2017).

3.3 Flexible labor contracts

Since 1970s the contracts for a specific work or defined time began to proliferate as a result of the labor flexibility imposed by the neoliberal model, substantially reducing the contracts for an indefinite period. This generates impacts on benefits granted to

workers, especially those related to retirement (IMSS, 1973 and IMSS, 1994), reinforced after the crisis in 2008.

The Mexican Congress enacted a sweeping labor reform bill into law on November 29, 2012. The law encompasses major changes to make Mexico's labor market flexible and incorporates modern statutes such as non-discrimination. Included in the 300 articles are provisions to ease the hiring-and-firing of workers, establish an apprenticeship system, establish an hourly wage system (heretofore, there was only a daily wage), and regulate outsourcing. The labor reform also prohibits job discrimination based on race, national origin, gender, age, disability, social status, health condition, religion, citizenship status, sexual preference, marital status, opinions, or any other category of discrimination that contradicts human dignity. It makes it illegal for employers to require pregnancy tests of their female workers and job candidates. The reform also restructures Mexico's labor courts and incorporates the International Labor Organization's (ILO) concept of decent work.¹

Mexico's Secretariat of Labor, the *Secretaría del Trabajo y Previsión Social* (STPS) is responsible for enforcing labor laws and conducting inspections of workplaces. In 2014, the STPS carried out regular inspections of workplaces, using a questionnaire and other tools to identify victims of labor exploitation (INEGI, 2016). These inspections identified several industries as having a high incidence of child labor (agriculture, coal mines, and construction). In April 2014, Mexico's Congress passed a constitutional reform (enacted in June) to prohibit children under the age of 15 from working. The Federal Labor Law was then updated in June 2015 and allows those between the ages of 15 and 17 to work no more than six daytime hours in nonhazardous conditions, and only with parental permission. The labor law includes a broad list of hazardous and unhealthy occupations that minors are prohibited from performing. According to the International Labor Organization (ILO), government enforcement was reasonably effective in enforcing these laws in large and medium-sized companies, especially in factories run by U.S. companies and in other industries under federal jurisdiction. Enforcement was inadequate in many small companies and in the

¹ The full text of the reform law can be found at http://www.stps.gob.mx/bp/micrositios/reforma_laboral/ref_lab.html.

agriculture and construction sectors, and it was nearly absent in the informal sector, in which most children worked.

3.4 Small and Medium Enterprises (SMES) and other vulnerable businesses

Mexico, without being the exception, reports a total of about 90% of its companies as MSMEs. It is precisely this type of company that is most at risk in usually unstable market economic situations. That is the main reason to structure “The Employment Preservation Program for protecting employment in vulnerable businesses”.

As entrepreneurship is the brand that characterizes the current economy, the entrepreneur must be ready to face financial and operational problems, and according to Villafranco (2014), there are seven items that can make the difference between success and closure of a company: strategic oriented to the capacity of the company to protect itself or adapt to the changes that may come; the ability to comply with laws and regulations that were omitted causing unexpected consequences; Financial factors, in the sense that the dimension of the debts acquired may not have been considered with fair average, causing lack of liquidity and leverage; Those of operational order that imply the lack of internal control structures in the organization; Environmental factors that imply the non-fulfillment of the requirements established by the law on environment, like the emission of pollutants; The lack of prevention and threats for an outdated use of ICTs; Factors related to poor management in the selection and location of employees (human resources).

In this respect, and in order to preserve employment in the face of the volatility of companies of such dimensions, Mexico has the Employment Preservation Program, whose purpose is to protect employment by strengthening practices that reduce costs. Companies face reductions in working hours instead of layoffs (Secretariat of Economy,).

Another area of companies with a high vulnerability index is the one with an adverse economic environment, which faces easy changes in consumer preferences and is strongly oriented towards foreign trade, such as the automotive industry and electronics, among others. The workers in these sectors have such a specific level of specific knowledge and skills that it is preferable to keep them than dismiss them, given the cost

of training that would imply, new workers, to the economic recovery (Ministry of Economy, ...).

3.5 Higher Education and Employment

In the various studies carried out, one can observe a labor demand that is based mainly on educational levels of high school and therefore faces a devaluation of the quality of skilled work, trained in institutions of higher education.

The 26.28% of the total of the underemployed population, counts on average level of education superior and superior at national level. This means that a little more than a quarter of the population presumes acceptable qualification levels in a knowledge-based economy, in other words, that this economy, contrary to the high levels of coverage at these levels, does not reach To use graduates of upper and upper secondary education loosely. This, in other words, means the substantial devaluation of wages in the face of constant inflation, as well as the devaluation of the professions, which is often necessary to work more hours than their current occupation allows them. As is the case of university graduates who occupy positions formerly occupied by higher education levels. **Estaria bien incluir una o dos citas. Nuestro libro y algo más.**

CONCLUDING REMARKS

The complexity of the development of market economies, their industrialization, but also other factors such as environmental care, climate change, technological development, population aging, international trade and global value chains, impact on the labor protection and labor normativity in many countries.

Mexico has recently been considered as an emerging economy. It is member of the OECD, has signed treaties such as the Kyoto Protocol, and actively participates in the G20 and the Asia Pacific Economic Cooperation (APEC), among other international organization.

However, the labor income in the country is not guaranteed and often very low. Due to the unequal distribution of income, 47%, of the total population is close or below the poverty line. Additionally, with the recent policies of USA and the imminent renegotiation of NAFTA, Mexico faces the necessity to generate jobs before the eventual return of compatriots abroad.

In Mexico, financially speaking, the retirement begins to generate a serious problem, not enough wealth is generated to face the payment of an aged labor. Oil prices, which have a negative impact on the generation of foreign currency incomes, the eventual application of taxes on remittances from the United States, may reduce this significant source of foreign exchange for the Mexican economy.

In general, international labor rights are recognized in Mexican law and the country has extensive occupational safety and health regulations and technical standards. However, important legal ambiguities exist with regard to collective bargaining and many rights are not respected in practice. According to labor rights activists, employers in all sectors sometimes used the illegal ‘hours bank’ approach—requiring long hours when the workload is heavy and cutting hours when it is light—to avoid compensating workers for overtime. In addition, many companies evaded taxes and social security payments by employing workers informally. The law prohibits most forms of discrimination; however, discrimination in employment or occupation continues to occur against women, indigenous groups, persons with disabilities, LGBT persons, and migrant workers.

The existing law enforcement is one of the main challenges that Mexico faces. Other important ones are to dignify the minimum wage, to guarantee the incomes and the rights of the temporary workers and to protect the employment in vulnerable businesses, such as SMES (including informal economy), and create decent jobs for higher education graduates.

Nowadays Mexico is in process of changing its labor laws and practices to bring them in line with international norms. Reforms of employment protection should be considered as part of a comprehensive package that includes an adequate safety net for the unemployed and effective re-employment services.

It is true that the abrupt changes that the country has had to face have placed it on a new development path. External developments and foreign markets are shaping the public policy, but the internal market should not be left out. Both give spaces for an occupation of the labor and for improving the conditions of labor protection. And finally, public policies and labor law enforcement must be based on the principles of social and economic inclusive and sustainable development, human rights and equity, according to the UN (2015) sustainable development goals.

REFERENCES

CEPF. Centro de Estudios de las Finanzas Públicas (2010). “Inversión Extranjera y Empleo”. Nota informativa. Available at: <http://www.cefp.gob.mx/publicaciones/nota/2010/mayo/notacefp0152010.pdf>

Cornia, G. A. (2012). “Inequality Trends and their Determinants: Latin America over 1990-2011”. Working Paper Series UNU-WIDER Research Paper, No. 2012/09.

Cornia, G. A. (2014). *Falling Inequality in Latin America: Policy changes and Lessons*, Oxford University Press.

Cornia, G. A., and Martorano, B. (2011). “Democracy, the New Left and Income Distribution: Latin America over the Last Decade”. In Valpy Fitzgerald, E., Heyer, J., and Thorpe, R. (Eds.), *Overcoming the Persistence of Inequality and Poverty*, London: Palgrave Macmillan.

Cornia, G. A., Gomez- Sabaini, J. C. and Martorano, B. (2011). “A new fiscal pact, tax policy changes and income inequality: Latin America during the last decade”, *Working Paper Series UNU-WIDER Research Paper* No. 2011/70.

DOF (2015a). Ley Federal del Trabajo. Última reforma publicada el 12 de junio de 2015. México

DOF (2015b). Ley del Seguro Social. Última reforma publicada el 12 de noviembre de 2015. México.

DOF (2015c). Reglas de operación para el programa de apoyo al empleo. Novena sección, México

ECLAC (2010). *Economic Survey of Latin America and the Caribbean, 2009 – 2010*, ECLAC, Santiago de Chile.

ECLAC (2013). *Fiscal Panorama of Latin America and the Caribbean Tax Reform and Renewal of the Fiscal Covenant*, ECLAC, Santiago de Chile, LC/L.3580.

Fernández-Arias, E. and P. Montiel (2010). “The Great Recession, 'Rainy Day' Funds, and Countercyclical Fiscal Policy in Latin America,” *Department of Economics Working Papers 2010-17*, Department of Economics, Williams College.

Freije, S., López-Acevedo, G., and Rodríguez-Oreggia, E. (2014). “Effects of the 2008–09 Economic Crisis on Labor Markets in Mexico”, in Banerji, Arup, David Newhouse, Pierella Paci, and David Robalino, (eds.) *Working through the Crisis: Jobs and Policies in Developing Countries during the Great Recession*. Directions in Development. Washington, DC: World Bank.

Gámez, A., Ivanova, A. and Compiranon, K. (2014). “Tourism and Economic Crisis Management within APEC. Cases: Phuket (Thailand) and Los Cabos (Mexico)” *International Journal of Sustainable Debelopment and Planning*, Vol. 9, # 2: 143-157.

IDC on line (2013). Permiso de paternidad efectos ante el IMSO
<http://www.idconline.com.mx/seguridad/2013/02/06/permiso-de-paternidad-efectos-ante-el-imss>

IMF (2010). “Mexico: Arrangement under the Flexible Credit Line and Cancellation of the Current Arrangement”, Country Report 10/81. International Monetary Fund, Washington, DC.

IMSS (2017). Puestos de trabajo afiliados al Instituto Mexicano del Seguro Social (IMSS) al mes de diciembre de 2016 No.011/2017,
<http://www.imss.gob.mx/prensa/archivo/201701/011>

Khanna, G., Newhouse, D. and Paci, P. (2014). “Fewer Jobs or Smaller Paychecks? Aggregate Crisis Impacts in Selected Middle-Income Countries,” in Banerji, Arup, David Newhouse, Pierella Paci, and David Robalino, (eds.) *Working through the Crisis: Jobs and Policies in Developing Countries during the Great Recession*. Directions in Development. Washington, DC: World Bank.

INEGI (2015). Estadísticas a propósito del día del niño (30 de abril), Datos nacionales.

.....

INEGI (2016). Encuesta nacional de educación y empleo (ENOE). Available at:
<http://www.beta.inegi.org.mx/temas/empleo/>

INEGI (2017a).
<http://www.inegi.org.mx/sistemas/BIE/CuadrosEstadisticos/GeneraCuadro.aspx?s=est&nc=597&c=25586>

INEGI (2017b).

<http://www.inegi.org.mx/sistemas/BIE/CuadrosEstadisticos/GeneraCuadro.aspx?s=est&nc=597&c=25586>

INEGI (2017c)

<http://www.inegi.org.mx/saladeprensa/aproposito/2015/ni%C3%B1o0.pdf>

INEGI (2008). Encuesta Nacional de Ocupación y Empleo, segundo trimestre de 2008

López-Calva, L. F., and N. Lustig (2010). *Declining inequality in Latin America: a decade of progress?* Brookings Institution Press.

Lora, E. (2007). *The State of State Reform in Latin America*, IABD, Stanford University Press.

Martorano, B. (2014a). “From Volatility to Stabilization: Cyclical Policy in Latin America over the Last Decades,” Working Papers - Economics WP07/2014, Università degli Studi di Firenze, Dipartimento di Scienze per l'Economia e l'Impresa.

Martorano, B. (2014b). Pre-crisis Conditions and Government Policy Responses: Chile and Mexico during the Great Recession, *Innocenti Working Paper No.2014-15*, UNICEF Office of Research, Florence.

OECD (2009). OECD Review of Budgeting in Mexico 2009, Supplement 1. Paris: OECD.

Robalino, D. A., Newhouse, D. and Rother F. (2014). “Labor and Social Protection Policies during the Crisis and the Recovery”, in Banerji, Arup, David Newhouse, Pierella Paci, and David Robalino, (eds.) *Working through the Crisis: Jobs and Policies in Developing Countries during the Great Recession*. Directions in Development. Washington, DC: World Bank.

Ros, J. (2011). “The Economic Crisis of 2008–09 and Development Strategy: the Mexican Case”, in Haddad, M. and B. Shepherd (Eds.), *Managing Openness: Trade and outward-oriented growth after the crisis*, Washington, D.C: World Bank. 22

Rosales, Rodríguez (2017). Detrimiento laboral, con mayor incidencia en region sureste. *El Ecoomista*, 17 de mayo de 2017, México

SDOIA (2016) Investment Climate Statement Mexico-Labor”, US Embassies Abroad, <https://www.export.gov/article?id=Mexico-Labor>

UNAM (2009). Los Sindicatos en México, D. F., México

Valencia Lomelí, E., Foust Rodríguez, D. and Tetreault Weber, D. (2013). *Sistemas de protección social en América Latina y el Caribe: México*, ECLAC, Santiago de Chile.

Villafranco, Gerardo (2014). 7 riesgos mortales para la operación de una Pyme. Forbes (2014). 7 riesgos mortales para la operación de una Pyme. Forbes Agosto 12 de 2014, México.

UN (2015) Sustainable Development Goals.
<https://sustainabledevelopment.un.org/?menu=1300>