

Economic Analysis

Labor Reform: Significant Progress for Labor Markets

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On May 1, a decree amending various laws that constitute the so-called labor reform was published. In order to fully assess the reform it will be necessary to wait for the secondary regulations to be published and for it to be implemented. However, after analyzing the changes approved, it seems to me that this is a substantial advance in labor legislation. Here I have commented on the main aspects of the reform:

1. The Conciliation and Arbitration Boards have been eliminated and their powers have been transferred to the judiciary where disputes will now be settled through oral proceedings. It also allows for an independent body to be created, which will aim for companies and workers to reach a settlement at a pretrial stage. This body will also be responsible for recording and monitoring collective agreements and trade unions. It seems to me that these are all positive changes. Transferring labor disputes from the executive to the judiciary should help to depoliticize labor disputes. In addition, it is hoped that the simplification of individual proceedings will reduce the time taken to resolve disputes. This is a welcome change, especially considering that the Conciliation and Arbitration Boards currently take between 3 and 5 years to resolve the cases.
2. The framework for regulating collective labor agreements has been changed. Not only will said agreements have to be registered with the abovementioned independent body, but they will prohibit the so-called exclusion clauses currently in existence and which state that if workers cease to belong to a union—either by renouncing their membership or by being expelled—the worker may be dismissed without liability to the employer. This leaves most workers at a disadvantage, with their employment prospects dependent on the whims of union leaders.
3. The registration of household workers with the IMSS (Mexican Social Security Institute) will become mandatory. There must be no doubt that this is a positive change. According to the INEGI (National Institute of Statistics and Geography), 95% of household workers are employed informally, leaving them unprotected if they fall sick. It is also a step in the right direction to reducing the informal economy in Mexico. This is no minor issue: there are 2.3 million domestic workers in Mexico.
4. Regulation of labor relations for agricultural workers. Among other things, it requires that agricultural workers have contracts and that seasonal workers may accumulate contracts in order to build up seniority. This is also positive considering that currently, 90% of agricultural workers have no contract.
5. Democracy, representation and trade union transparency. This is potentially the most important aspect of the reform, considering the history of corrupt union leaders that has characterized Mexico's trade unions over time. Votes cast by a show of hands will be eliminated; votes will be free and secret. In addition, the reform establishes the concept of Constance of Trade Union Representation, which recognizes trade unions that have at least 30% of workers as members. The leadership will be held accountable for the management of the unions' assets. The lack of democracy and representation and the resulting corruption, are the most serious problems for trade unions. This reform opens the door for these problems to be solved.

In addition to the above advantages, the reform has an additional (but in no way minor) benefit which is that it increases the likelihood that the new trade deal with the United States and Canada will be approved, since the changes envisaged have been appointed by Democratic members of Congress as an essential precondition for their favorable vote on the deal.

However, the main challenge lies in the implementation and enforcement of these laws (the biggest problem posed to rule of law in Mexico). The institutional design of the Federal Conciliation and Arbitration Board will be especially important; particular care should be taken that persons appointed to this Board are not perceived as politicians and that the appointees are persons with ample credibility. Without proper implementation, the reform will be no more than good intentions. It will not be the first time this has happened in Mexico.

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