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LIST OF ABBREVIATIONS

CONEVAL	Consejo Nacional de Evaluación de la Política de Desarrollo Social
DOF	Diario Oficial de la Federación
IMSS	Instituto Mexicano del Seguro Social
INEGI	Instituto Nacional de Estadística y Geografía
INFONAVIT	Instituto Nacional de la Vivienda
ISSSTE	Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado
MXN	Peso mexicano
SCJN	Suprema Corte de Justicia de la Nación
USD	US Dollars

1. INTRODUCTION

5 February 2017 marks the 100th anniversary of the Political Constitution of the United Mexican States (the first constitution in the world to guarantee social rights). Other events of great social relevance during the reporting period were major earthquakes that called into question the effectiveness of Mexican social security benefits (specifically in the areas of health care and housing) and the economic situation affecting the development of the public institutions providing social benefits. One example of the latter: gasoline prices rose between 14.2% and 20.1% (depending on the type of fuel).¹ This had an impact on the prices of food, goods and services, and although the budget for social programs increased by 16.7%², it was not enough to combat poverty.

There were no important changes in legislation. Only the new Regulations for the Evaluation of Occupational Risks and Disabilities of the Institute for Social Security and Social Services for State Workers (ISSSTE)³ can be reported, while the rest were only initiatives – interesting, but in the end initiatives only.

Examples of such initiatives include the proposed reform of the Federal Labor Law and the Federal Law for State Workers on the transfer of weeks of post-natal maternity leave for working mothers, and the constitutional labor reform which began in 2016 (this reform was analyzed in the report for 2016). This reform proposes the elimination of Conciliation and Arbitration Boards under the authority of the executive branch to be replaced by labor courts assigned to the state and federal judiciaries, and the establishment of labor conciliation centres to resolve conflicts prior to trial.

According to the provisions of the transitory second article, this reform was expected to enter into force on 24 February 2018. However, the law has not been enforced due to a lack of consensus among legislators and the reform has not materialized. Several proposals for this constitutional reform have been discussed, such as the creation of specialized social security courts, but currently nothing is in force.

Thus, this report will focus on presenting the real advances in legislation, case law and the main events in the field of social law in Mexico.

¹ Animal político, *Gasolina subirá hasta 20% en enero de 2017; estos son los nuevos precios* [Gasoline will increase by 20% in January 2017; These are the new prices], México, 2017, available at: <https://www.animalpolitico.com/2016/12/precio-gasolina-aumento-2017/> (accessed: 17 April 2018).

² Transparencia presupuestaria Observatorio del gasto, *Presupuesto de Egresos de la Federación 2017* [Federal Expenditure Budget], México, 2017, available at: http://www.transparenciapresupuestaria.gob.mx/work/models/PTP/Home/PEF2017/PEF_2017.pdf (accessed: 17 April 2018).

³ This is the acronym for the Institute for Social Security and Social Services of State Workers.

2. ECONOMIC, POLITICAL AND SOCIAL SITUATION IN 2017

2.1. Economy

The Gross Domestic Product registered the same annual average increase as the previous year: 2.3% according to the estimates of the National Institute of Geography and Statistics (INEGI), with a moderate economic performance for 2017.⁴

Once again, remittances played an important role in the Mexican economy as it is estimated that in December 2017 close to 28.6 billion US dollars in remittances entered Mexico, reaching another peak with an increase of 4.1% over the previous year.⁵

The possible causes of this new record stem from the fear (unrelenting since 2016) of Mexicans living in the United States of being deported as a result of the new immigration policies established by current US President Donald Trump, as well as from changes in trade since the renegotiation of the North American Free Trade Agreement (NAFTA) is still uncertain.

2.2. Labor

With regard to labor data, the following should be noted:

The economically active population in 2017 (those aged 15 years or older who generate goods or services) was 54.4 million people or 59.4% of the total Mexican population.⁶ This figure increased by 0.2% compared to the previous year.

The unemployed population in 2017 was 1.9 million people, which represents a rate of 3.3%,⁷ which is lower than that of the previous year.

Official data provided by the Mexican President's Office show that 38,000 new formal jobs were created in 2017 and were reported to the Mexican Social Security Institute (IMSS),⁸

⁴ Instituto Nacional de Estadística y Geografía, Estimación oportuna del producto interno bruto en México durante el cuarto trimestre de 2017, INEGI, México, 2017, p. 2.

⁵ Cervantes, David, Remesas caen 4.7% en noviembre, pero cerrarán en máximo histórico, BBVA Research, 2018, p. 1.

⁶ Instituto Nacional de Estadística y Geografía, *Resultados de la Encuesta Nacional de Ocupación y Empleo*, INEGI, México, 2017, available at: http://www.inegi.org.mx/saladeprensa/boletines/2017/enoe_ie/enoe_ie2017_11.pdf (accessed: 31 January 2018).

⁷ Idem.

⁸ This is the acronym for the Mexican Social Security Institute.

amounting to a total of 2,877,000 new sources of employment during the current government administration.⁹

Unfortunately, the population employed in the informal sector increased yet again, at a rate of 57.1%,¹⁰ which represents around 30 million people, most of whom are men, with 18.5¹¹ million working in the informal sector, all of whom lack access to services provided by a social security institute and depend solely on the income they receive from their gainful activity and from social assistance services.

The general minimum wage for 2017 stood at 80.04 Mexican pesos per day,¹² which equals 2,401.20 Mexican pesos a month (124.80 USD).¹³ Meanwhile, the basic food and non-food basket as established by the National Council for the Evaluation of Social Development Policy for all persons to be placed above the wellbeing line was set at 2,980.79 Mexican pesos (154.92 USD) for that same year.¹⁴

In this regard, it can be said that a person who receives a minimum daily wage will not be able to satisfy his or her minimum basic needs on such income, much less the needs of an entire family as provided in the Political Constitution of the United Mexican States.¹⁵

2.3. Social Security

Every two years, the National Institute of Statistics and Geography carries out the National Survey of Occupation and Employment. The figures due for 2017 have not yet been released. Nevertheless, according to the figures reported in the 5th Presidential Government Report, the number of beneficiaries insured by the main social security institutions (IMSS-ISSSTE)

⁹ Presidencia de la República, *38 mil nuevos empleos en julio 2017*, Presidencia de la República, México, 2017, available at: <https://www.gob.mx/presidencia/articulos/38-mil-nuevos-empleos-en-julio-2017> (accessed: 31 January 2018).

¹⁰ Instituto Nacional de Estadística y Geografía, *Encuesta Nacional de Ocupación y Empleo (ENOE), población de 15 años y más de edad*, INEGI, Mexico, 2017, available at: <http://www.beta.inegi.org.mx/proyectos/enchogares/regulares/enoe/> (accessed: 31 January 2018).

¹¹ Idem.

¹² Secretaría de Trabajo y Previsión Social, *Salarios mínimos*, STPS, México, 2017, available at: https://www.gob.mx/cms/uploads/attachment/file/175865/Tabla_de_salarios_minimos_vigentes_a_partir_de_01_enero_2017.pdf (accessed: 31 January 2018).

¹³ The exchange rate used for this report is 19.24 Mexican pesos = 1 USD, data from the Bank of Mexico on 10 January 2018, available at: Banco de México, Tipo de cambio, Mexico, Banco de México, 2018, available at: <http://www.banxico.org.mx/portal-mercado-cambiario/index.html> (accessed: April 2018).

¹⁴ Consejo Nacional de Evaluación de la Política de Desarrollo Social, *Evolución de las líneas de bienestar y de la canasta alimentaria*, CONEVAL, Mexico, 2017, available at: <http://www.coneval.org.mx/Medicion/MP/Paginas/Lineas-de-bienestar-y-canasta-basica.aspx> (accessed: 31 January 2018).

¹⁵ Article 123, Section A subsection IV: Los salarios mínimos generales deberán ser suficientes para satisfacer las necesidades normales de un jefe de familia, en el orden material, social y cultural, y para proveer a la educación obligatoria de los hijos. [General minimum wages should be enough to meet the normal, material, social and cultural needs of a head of household, and to provide for the mandatory education of the children.]

was 79.1 million.¹⁶ As a mechanism implemented by the federal government to provide protection to health care, the people's insurance insures 53.3 million people.¹⁷

The budget allocated for social security in 2017 was 642,744,210,907 Mexican pesos,¹⁸ a considerable increase compared to that of 2016, which stood at 553,686,745,568.¹⁹

2.4. Poverty

No data referring to poverty was published in 2017 due to the fact that the multidimensional poverty measurement applied by the National Council for the Evaluation of Social Development (CONEVAL) is done every two years. The most recent one was done in 2016; therefore, new data are not expected until 2019. Even then, the 2016 poverty data from the CONEVAL were released in mid-2017: In 2016, 53.4 million persons were reported to be living in poverty, which represents 43.6% of the total population in Mexico.²⁰ The Council also stated that 9.4 million persons remain in a situation of extreme poverty; that is, those who have three or more social deprivation factors according to the Social Deprivation Index.²¹ Hence, persons living under these conditions represent 7.6% of the total population.²²

*Acción Ciudadana Frente a la Pobreza*²³ stated that by 2017, approximately 21.7 million persons will receive an income below the cost of the basic food basket,²⁴ in the understanding that poverty in Mexico originates from the workplace. That said, 41% of all working persons earn an income that is not enough to guarantee food for their families, which translates into workers living in extreme poverty.

¹⁶ Data obtained from the Fifth Government Report of Mexican President Enrique Peña Nieto, available at: http://framework-gb.cdn.gob.mx/quintoinforme/5IG_ANEXO_FINAL_TGM_250818.pdf (accessed: 1 May 2018).

¹⁷ Presidencia de la República, *5to informe de gobierno 2016-2017*, Presidencia de la República, México, 2017, p. 170.

¹⁸ Diario Oficial de la Federación, *Presupuesto de Egresos de la Federación para el año 2017*, DOF, available at: http://www.dof.gob.mx/nota_detalle.php?codigo=5463184&fecha=30/11/2016 (accessed: 31 January 2018).

¹⁹ Diario Oficial de la Federación, *Presupuesto de Egresos de la Federación para el año 2016*, DOF, available at: http://dof.gob.mx/nota_detalle.php?codigo=5417699&fecha=27/11/2015 (accessed: 31 January 2018).

²⁰ Consejo Nacional de Evaluación de la Política de Desarrollo Social, *CONEVAL informa la evolución de la pobreza 2010-2016*, México, 2017, p. 1, available at: <https://www.coneval.org.mx/SalaPrensa/Comunicadosprensa/Documents/Comunicado-09-Medicion-pobreza-2016.pdf> (accessed: 21 April 2018).

²¹ Social deprivation means the lack of access to the right to education; to health services; to social security; to food; to quality housing and living space, including solid floors, roofing materials, and walls; and to basic services like drainage, electricity, gas and plumbing.

²² *Op. cit.*, Consejo Nacional de Evaluación de la Política de Desarrollo Social, p. 1.

²³ *Acción Ciudadana contra la pobreza* is a civil organization that aims to provide information based on data from the public, private and social sectors in order to address the challenges that Mexican society faces every day. At *Acción Ciudadana Frente a la Pobreza*, Organización, México, 2017, available at: <http://www.cohesionsocial.mx/quienes-somos/organizacion> (accessed: 11 April 2018).

²⁴ In 2017, the monthly value of the basic basket per person was 1,491.65 Mexican pesos.

3. EVOLUTION OF SOCIAL PROTECTION SCHEMES

3.1. Old-Age Schemes

The only issue that stands out in the area of old age was the increase in capital gain of Retirement Fund Administrators.

In 1995, through a privatized system of individual capitalization in Mexico, the Retirement Fund Administrators were called into being (in 2017, there were 11 administrators in operation): these administrators manage the individual accounts of workers, and the amount of pension at the end of each worker's working life depends on the amount saved in his or her account.

That same year, the increase in capital gain of the resources accumulated by the aforementioned fund administrators reached a peak since their commissioning, as they accumulated the sum of 246.58 billion Mexican pesos (12,816.46 USD), and obtained a yield of 9.85%.²⁵

3.2. Invalidity

In 2017, no legislative reforms regarding this issue were made; however, there is a dissenting opinion that specifies the granting of benefits in the event of invalidity:

Invalidity Pension for an Older Adult

Entitlement to invalidity insurance pension has been extended by an exemption from compliance with the main requirement established by law for being granted the benefit.

In order to be entitled to an invalidity pension, it is required, among other things, that a person can no longer – due to a general illness or an accident – earn an income from paid employment of more than 50% of the income normally received in the previous year (Art. 119 of the Social Security Law). However, in a lawsuit initiated in the first instance in 2012, the Supreme Court of Justice ruled in favor of a 67-year-old insured person who sued the IMSS before the Federal Conciliation and Arbitration Board for benefits that had been denied to him. The claimant was granted the invalidity pension and medical assistance derived from his suffering from post-traumatic neurosis.

In the case before the Court the insured person could not claim an old-age pension because he did not meet the requirements established by law, one of which is to have paid the necessary weeks of contributions to the social security system (1250 weeks).

²⁵ El financiero, 2017, año record para las Afore en México, México, 2017, available at: <http://www.elfinanciero.com.mx/economia/2017-ano-record-para-las-afore-en-mexico.html> (accessed: 8 February 2018).

The Board (first instance) denied the benefits on the grounds that one of the requirements laid down in the Social Security Law was not met, namely that the illnesses recognized by an expert would make it impossible for the claimant to receive more than 50% of the remuneration normally received in the previous year.

The SCJN issued an isolated opinion stating that the claimant was an older adult, who for obvious reasons called for special considerations, due to the evident decrease in his functional capacities. Therefore, his age was deemed sufficient to presume – contrary to the provisions of the law and the responsible Board – that he complied with the income criteria required by the Social Security Law.

This opinion is significant because of the extension of coverage based on special considerations for older adults, beyond the legal requirements. It can be stated that even though the opinion does not expressly state it, the recognition of social security as a human right can be inferred.²⁶

3.3. Survivors

No legislative reforms concerning survivors were recorded for 2017. However, the Supreme Court has established some interesting criteria, among which the following stand out: on the one hand, arguments in favor of gender equality and, on the other, an objective assessment of the requirements for the entitlement of benefits in the event of the death of a worker or pensioner.

3.3.1. Granting Widowhood Pension Regardless of Gender

One of the discriminatory and obsolete requirements of the Social Security Law (Art. 130) and of the collective contract governing workers (Art. 14, Section I of the Retirement and Pension System) to obtain a widowhood pension for the husband or the man with whom the female worker has lived for at least 5 years or has had children, is that the man must also have been financially dependent on her, a requirement that is not applied to widows (women). This is an issue of gender discrimination against men as it demands an extra requirement, such as financial dependence for widowhood pension based merely on the fact that they are men.

This issue had already been addressed in other court rulings.²⁷ However, since they are isolated opinions, they are not applicable to all claimants. The new ruling dealt with a man

²⁶ Sentencia Amparo directo 1088/2015, 20 October 2016, published as an isolated opinion on 17 March 2017, at: Gaceta del Semanario Judicial de la Federación, Tesis: VII.2o.T. 107 L(10a.), March 2017, Décima Época, Registro 2013997, Tribunal Colegiado de Circuito.

²⁷ Gaceta del Semanario Judicial de la Federación, Tesis: 2a. VII/2009., February 2009, Novena Época, Segunda Sala. Gaceta del Semanario Judicial de la Federación, Tesis: I.13o.T.116 L (10a.), March 2015, Décima Época, Tribunal Colegiado de Circuito.

who, after the death of his wife who worked at the IMSS, filed a lawsuit to prove that he was the sole beneficiary of a widowhood pension.

The court of first instance held that IMSS had no liability for awarding the widowhood pension to the spouse on the grounds that he was not completely incapacitated and financially dependent on the deceased female worker.

On requesting an *amparo* trial, in April 2017 the federal court ruled in favor of the complainant, arguing that the distinction established in the Retirement and Pension System was not based on any objective criteria that would justify the distinction between men and women. This decision gave preference to the elimination of stereotypical conceptions of gender roles.²⁸

It should be noted that on June 21, 2017, Senator Miguel Romo of the Institutional Revolutionary Party presented a reform initiative aimed at modifying the Social Security Law to allow the spouse of a beneficiary to be covered without regard to the spouse's sex. This initiative seeks to ensure that any widower, widow, or common-law partner of an insured person receives the corresponding pension regardless of their gender, thus eliminating discriminatory requirements and also giving the opportunity to same-sex couples to get insurance coverage for their partners, since Article 130 of the Social Security Law discriminates against widowers and excludes homosexual couples as well.

3.3.2. Entitlement Criteria for Widowhood Pension (Duration of Marriage)

The Supreme Court of Justice ruled in favor of a woman who claimed a widowhood pension without meeting the specific requirement of having been married for at least 6 months before her husband's death in order to qualify for a widowhood pension.²⁹ This requirement is intended to ensure adequate funding for the institute, for example by preventing

²⁸ Cfr. Suprema Corte de Justicia de la Nación, *Crónicas del pleno y de las salas*, SCJN, Mexico, 2017, available at: https://www.scjn.gob.mx/sites/default/files/sinopsis_asuntos_destacados/documento/2017-05/2S-260417-JLP-6043.pdf (accessed: 4 April 2018).

²⁹ Artículo 132. No se tendrá derecho a la pensión de viudez que establece el artículo anterior, en los siguientes casos:

- I. Cuando la muerte del asegurado acaeciera antes de cumplir seis meses de matrimonio;
- II. Cuando hubiese contraído matrimonio con el asegurado después de haber cumplido éste los cincuenta y cinco años de edad, a menos que a la fecha de la muerte haya transcurrido un año desde la celebración del enlace, y
- III. Cuando al contraer matrimonio el asegurado recibía una pensión de invalidez, vejez o cesantía en edad avanzada, a menos de que a la fecha de la muerte haya transcurrido un año desde la celebración del matrimonio. [Article 132. A person shall not be entitled to the widowhood pension set forth in the previous article, in the following cases:
 - I. When the insured person's death occurs before the six-month anniversary of marriage;
 - II. When marrying the insured person when the insured person is over the age of fifty-five, unless one year has elapsed between the date of the marriage and the death of the insured person, and
 - III. When the insured person was receiving pension benefits for invalidity, old-age or severance at old age, unless one year has elapsed between the date of the marriage and the death of the insured person.]

terminally ill persons from getting married just to provide a widowhood pension to those who are not actually their survivors.

Thus, a woman who had only been married for 25 days was denied a widowhood pension by the IMSS. The court of first instance rejected the claim as well and ratified the decision of IMSS. The Supreme Court of Justice took the case of the *amparo* under review and put forward interesting arguments:

1. Denying her a pension for the abovementioned reason violates the guarantees of equality and social security since, in the absence of children as the first beneficiaries, the wife is the beneficiary.
2. Death is not predictable and it occurred accidentally. It is a matter beyond their control that it should happen. Although it is true that they can decide the date of the wedding, they cannot decide the date of death.

Again we see a resolution that places the human right to social security above the restrictive requirements for access to benefits.³⁰

3.4. Health Care Provision and Sickness Benefits

The increase in population that Mexico is facing generates new needs among its population in various areas, one of which is undoubtedly the access to the right to health for all. Consequently, the Mexican State is striving to improve the conditions of this right through the various health institutions in order to guarantee this human right adequately and effectively.

In 2017, no structural changes were made at the constitutional level. However, in order to guarantee greater coverage and service to the population, collaboration agreements were signed between the institutions that provide medical care so that the population can be treated in any institution regardless of whether they are beneficiaries or not.

These actions show significant progress made in the provision of health services to the Mexican population.

On the other hand, the Supreme Court of Justice has not been indifferent to this issue. The same year, it issued case-law criteria focused on the protection of the human right to health. A clear example is in establishing that health must be guaranteed at the constitutional level without the need to resort to international treaties for it to be granted.

In this context, the following reports are presented:

³⁰ Sentencia Amparo directo 188/2013, 11 October 2016, published as an isolated opinion on 19 March 2017, in: Gaceta del Semanario Judicial de la Federación, Tesis: XI.1o.A.T.81 A (10a.), March 2017, Décima Época, Registro 2015976, Tribunal Colegiado de Circuito.

3.4.1. Overview of Health Programs in Mexico

Within the framework of the World Population Day celebrated on July 11, 2017, the importance of the human right to health was highlighted as this right enables each and every one of the people who inhabit the planet to access health care and develop a healthy standard of living, which is especially important in a country like Mexico, where the population has grown exponentially, i.e. almost fivefold since the middle of the last century. This must entail great changes and therefore new ways to satisfy the needs of the entire population, including access to healthcare.

Consequently, the federal government has implemented several programs to meet the needs arising from population growth. To give examples of this, the infant mortality rate has dropped by nearly 90 percent; maternal mortality rates have improved, and life expectancy has increased by about 30 years over the last 65 years.

In an effort to guarantee health protection, generic medicines have been allowed in, the implementation of vaccination programs has been successful with the application of 330 million vaccines, and investments of around 25 billion pesos have been made in the last 4 years.

In 2017, approximately one million Mexicans were treated daily in public health institutions.³¹

The progress in health-related issues up to 2017 has been significant: a national cancer registry was implemented; a 'Health at School' program was developed, and a cancer program was established. Despite the significant achievements reached this year, major challenges have yet to be overcome in terms of health, as there are still outstanding issues to be attended to, such as diabetes, obesity, overweight, HIV-AIDS, and others.³²

3.4.2. Discrimination Based on Health Condition

A person filed an *amparo* with the federal court because a state court refused him permission to see his daughter during the home visits. The state court's argument was that because the father was ill (epileptic seizures) he could not have contact with the child even though the complainant's illness did not endanger his daughter's health.

The district court judge ruled on the *amparo* in favor of the complainant so that the visits could take place. Not satisfied with this decision, the mother of the child, as an interested

³¹ El Universal, Panorama de la salud en México, México, 2017, available at: <http://www.eluniversal.com.mx/entrada-de-opinion/articulo/lilia-merodio-reza/nacion/2017/07/7/panorama-de-la-salud-en-mexico> (accessed: 24 April 2017).

³² Merodio Reza, Lilia, *Panorama de la Salud en México*, El Universal, Mexico, 2017, available at: <http://www.eluniversal.com.mx/entrada-de-opinion/articulo/lilia-merodio-reza/nacion/2017/07/7/panorama-de-la-salud-en-mexico> (accessed: 9 February 2018).

third party, filed a revision appeal before a collegiate court. The Collegiate Court decided to uphold the judgment under appeal, arguing that it constituted discriminatory treatment against the father of a minor, as it sought to limit his right/duty to visitation and maintain personal relations on the pretext that he suffered from a chronic degenerative illness, without it being proved that such illness would place the child or adolescent at risk.³³

3.4.3. Right to Health Protection and the Role of International Law

A person representing his daughter filed an *amparo* trial before the federal court against the ISSSTE for violating Article 4 of the Constitution regarding access to health care, and failure to provide information regarding the diagnosis, a copy of her medical records, among other things. The complainant also alleged a violation of Article 12.1 of the International Covenant on Economic, Social and Cultural Rights, in that every authority had an obligation to fulfil human rights and that the authority was not complying with what was stipulated.

The district court judge decided to dismiss the case on the grounds that one of the causes was contemplated in Mexican law. The complainant brought a revision appeal before a collegiate court claiming that it violated international treaties since national health legislation was insufficient to ensure effective access to health care. This collegiate body ruled the *amparo* in favor of the complainant so that medical treatment could be provided to her daughter along with the medical records she required, but as for the demand for compliance with international conventions on the matter, a negative decision was given, arguing that it was not necessary to invoke international legislation since local legislation covered all the cases that were being claimed. This case led to the isolated opinion that health protection was fully ensured by national legislation and it was not necessary to consider international instruments dealing with the same issue.³⁴

3.4.4. Access to Health Care Services

Within the framework of the 16th Regular National Meeting of the National Health Council, an agreement was signed between the Ministry of Health, the IMSS and the ISSSTE to provide care for the entire population regardless of whether social security or health care services from social assistance programs were available to them.

The purpose of this agreement is to establish the general guidelines for the exchange of health services between national social security institutions, the 32 states in the country, National Health Institutions and highly specialized hospitals. It should be noted that this

³³ Sentencia Amparo en revisión 125/2017, 10 May 2017, published as an isolated opinion on 1 December 2017, in: Gaceta del Semanario Judicial de la Federación, Tesis: I.3o.C.1 CS. (10a.), December 2017, Décima Época, Registro 2015807, Tribunal Colegiado de Circuito.

³⁴ Sentencia Amparo en revisión 422/2015, 14 April 2016, published as an isolated opinion on 27 October 2017, in: Gaceta del Semanario Judicial de la Federación, Tesis: I.8o.A.6 CS (10a.), October 2017, Décima Época, Registro 2015427, Tribunal Colegiado de Circuito.

agreement is only the basis for guaranteeing access to health services to the entire population since it is still necessary to establish the mechanisms, obligations and guarantees of the institutions to make it effective and thus guarantee the human right to health enshrined in Article 4 of the Mexican Constitution.³⁵

3.5. Maternity Leave

In 2017, no major measures were taken to benefit Mexican mothers. Nonetheless, there was an initiative published in Bulletin 3422 of the Chamber of Deputies, which approved the reform to Article 170 of the Federal Labor Law and Article 28 of the Federal Law for State Workers. These articles deal with maternity leave, and the proposal aims to allow working mothers to transfer up to five of the six weeks of pre-delivery rest until after childbirth. The reform also establishes that in the event of the birth of a child with a disability or who requires inpatient hospital care, leave can be increased to eight weeks.³⁶

3.6. Industrial Accidents/Occupational Diseases

Accidents at work, as well as occupational diseases, are a constant feature of the world of work in Mexico. It is therefore of the utmost importance to pass regulations within the national legal framework to safeguard the integrity of the workers who provide their services on a day-to-day basis in the workplace.

In 2017, important progress was made on this issue as an expert opinion was adopted to reform the table of occupational diseases, which had not been done in over four decades. The ISSSTE Regulations were thus published to regulate, expedite and improve the reporting of occupational diseases.

3.6.1. Updating the Table of Occupational Diseases

As a result of the 2012 labor reform, the Ministry of Labor and Social Security and the National Advisory Committee on Safety and Health at Work were authorized to update the table of occupational illnesses, with a six-month period. However, it was not until 30 August 2016 that the first extraordinary session of the Commission was held, during which the updating of the table was approved and was awaiting further approval by the Congress.³⁷ In this context, in February 2017 the Chamber of Deputies approved the expert opinion that

³⁵ Instituto Mexicano del Seguro Social, *Mexicanos podrán recibir servicios en cualquier Unidad Médica sin importar si tienen o no seguridad social*, IMSS, México, 2017, available at: <http://www.imss.gob.mx/prensa/archivo/201703/SSA03> (accessed: 9 February 2018).

³⁶ Cámara de Diputados, *Avalan reformas para que madres trabajadoras puedan transferir semanas de descanso posterior al parto*, Boletín No. 3422, 04-04-2017. available at: <http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Boletines/2017/Abril/04/3422-Avalan-reformas-para-que-madres-trabajadoras-puedan-transferir-semanas-de-descanso-posterior-al-parto> (accessed: 4 April 2018).

³⁷ Secretaría de Desarrollo Social, *Actualizan tabla de enfermedades de trabajo*, México, 2016, available at: <https://www.gob.mx/stps/prensa/actualizan-tabla-de-enfermedades-de-trabajo> (accessed: 26 April 2018).

amends and adds various articles of the Federal Labor Law, including the table of occupational diseases and the evaluation of permanent disabilities resulting from occupational hazards.³⁸

This is excellent news as no changes had been made for 46 years. There are currently 161 occupational diseases and a further 24 are expected to be incorporated for a total of 185. Once the Senate approves the corresponding expert opinion, the head of the Ministry of Labor and Social Security will have 6 months, as of the entry into force of the reform, to publish the tables. These changes are expected to come into effect along with the full labor reform, which is still pending.³⁹

3.6.2. New ISSSTE Regulation on Occupational Risks and Invalidity

On 24 February 2017, the ISSSTE Regulation for the Assessment of Occupational Risks and Invalidity was published in the Federal Official Gazette. The purpose of this regulation is to regulate the ISSSTE's medical assessment procedure, in its different stages and in connection with occupational risks in order to make it more expeditious, timely, orderly, efficient and effective in accordance with the applicable provisions.⁴⁰

3.7. Recognition of Family Forms without Marriage

In 2017, support was given to the recognition of social security rights for families and same-sex couples.

The first manifestation was through a recommendation of the National Human Rights Commission, which was followed by court rulings.

3.7.1. Access to Social Benefits for Same-Sex Couples

The National Human Rights Commission issued a recommendation to the IMSS for having denied widowhood pension to homosexual partners, arguing that such benefits are only granted if the couples have officially married. This stipulation violates the principles of equality, non-discrimination, legality and legal certainty.

³⁸ Cámara de Diputados, *Gaceta Parlamentaria*, México, 2017, available at: http://www.diputados.gob.mx/LeyesBiblio/iniclave/CD-LXIII-II-2P-169/02_dictamen_21feb17.pdf (accessed: 9 April 2018).

³⁹ Cámara de Diputados, *Comunicación social*, México, 2017, available at: <http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Agencia-de-Noticias/2017/02-Febrero/21/5987-Aprueban-diputados-reformas-a-la-Ley-Federal-del-Trabajo-para-actualizar-las-tablas-de-enfermedades-del-trabajo-y-de-valuacion-de-incapacidades-permanentes> (accessed: 9 April 2018).

⁴⁰ Diario Oficial de la Federación, ACUERDO 43.1356.2016 de la Junta Directiva por el que se aprueba el Reglamento para la Dictaminación en Materia de Riesgos del Trabajo e Invalidez del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, México, 2017, available at: http://www.dof.gob.mx/nota_detalle.php?codigo=5472982&fecha=24/02/2017 (accessed: 11 April 2018).

The IMSS is currently in the process of seeking approval from its Technical Council to propose the necessary legislative reforms to the Federal Executive to address this recommendation.⁴¹

3.7.2. Court Rulings on the Right to Non-Discrimination

Several rulings regarding the right to non-discrimination of same-sex couples were presented, the first of which was discussed in the section on survivors.⁴²

The second consists of an isolated opinion in which the court grants a female person the right to affiliate her spouse (of the same sex) as a beneficiary of the ISSSTE. She had been denied affiliation on the grounds that under the terms of ISSSTE law, it was not legally possible to deal with requests for the incorporation of same-sex marriages or common-law partners.

The most important aspect of the court's argument is that it grants the protection of the law by recognizing that "legal unions, such as marriage, and *de facto* unions, such as common-law partnerships, which produce economic and non-economic benefits for those who adopt them, are among the common forms of family formation. Moreover, in both cases, these are the origins of the right to social security in favor of the insured worker's spouse or common-law partner."

A very important criterion for the granting of social security rights to same-sex partners of beneficiaries was established by this case.⁴³

3.8. Social Assistance (Minimum Income Support)

The social insurance of the Mexican population is far from universal. For this reason, social assistance benefits are extremely important in providing Mexicans a minimum income or minimum basic benefits.

In this sense, the results of some social programs and the adoption of a state law on assistance for persons with disabilities stand out as they include more generous benefits than the national law concerning such matters.

⁴¹ IMSS, Prensa: El IMSS recibe recomendación de la CNDH, con motivo de la negativa de otorgamiento de pensión por viudez a concubinos de parejas homosexuales, México, 2017, available at: <http://www.imss.gob.mx/prensa/archivo/201711/358> (accessed: 9 April 2018).

⁴² See a) Granting widowhood pension regardless of gender.

⁴³ Tesis aislada 3 March 2017, in: Gaceta del Semanario Judicial de la Federación, Tesis: 2ª. IX/2017 (10a), March 2017, Décima Época, Registro, 2013788 segunda sala.

3.8.1. Results of Assistance Programs

By 2017, the social assistance programs implemented by the Ministry of Social Development have played an important part in the development of social policy through the coverage they have provided. Specifically, the results of some of the noteworthy programs are:

Child care facilities: More than 1.7 million parents were given access to this service so that they could have the opportunity to secure a formal job.⁴⁴

Productive Options: More than 70,000 Mexicans benefit from this program, 45,000 of whom are women.⁴⁵

Life Insurance Program for Female Heads of Family: This program guarantees the education of the children of 6.6 million women benefitting from this life insurance in the event of orphanhood.⁴⁶

Pensions for Older Adults: As of 2017, the beneficiaries of this program no longer have to visit the program's affiliation modules every six months for re-registration and continue to receive the benefits guaranteed by this program.⁴⁷

Community Kitchens: 5,388 community kitchens were operating nationwide, primarily benefitting children aged 0-11, adults over 65, pregnant and nursing women, as well as persons with disabilities, providing them with two meals a day. Thanks to these community kitchens, an average of 109 to 120 persons benefit at each kitchen.⁴⁸

3.8.2. State of Morelos Law of Assistance of Persons with Disabilities

This is a highly innovative law that grants progressive social benefits to persons with disabilities that facilitate their integration into society. This is clearly illustrated in the access to mandatory public education for the hearing impaired, the inclusion of persons with disabilities in the workplace by means of training, retraining and occupational education, the modifications effected to public transport to allow for passengers with disabilities, as well as discounted or free fares, the architectural adaptation of public spaces for easy access, access

⁴⁴ Secretaría de Desarrollo Social, *Sedesol apoya a más de 1 millón 700 mil madres y padres de familia a través de las Estancias Infantiles*, México, 2017, available at: <https://www.gob.mx/sedesol/articulos/sedesol-apoya-a-mas-de-1-millon-700-mil-madres-y-padres-de-familia-a-traves-de-las-estancias-infantiles?idiom=es> (accessed: 24 April 2018).

⁴⁵ Idem.

⁴⁶ Idem.

⁴⁷ Secretaría de Desarrollo Social, *El Programa Pensión para Adultos Mayores tiene nuevas reglas de operación*, México, 2017, available at: <https://www.gob.mx/sedesol/es/articulos/el-programa-pension-para-adultos-mayores-tiene-nuevas-reglas-de-operacion?idiom=es> (accessed: 9 April 2018).

⁴⁸ Secretaría de Desarrollo Social, *"Sedesol contribuye a mejorar la alimentación de más de medio millón de mexicanos en 5,388 comedores comunitarios"*, México, 2017, available at: <https://www.gob.mx/sedesol/es/articulos/sedesol-contribuye-a-mejorar-la-alimentacion-de-mas-de-medio-millon-de-mexicanos-en-5-324-comedores-comunitarios?idiom=es> (accessed: 12 April 2018).

to social assistance services for persons who are vulnerable or lack social protection, to mention a few examples.⁴⁹

3.9. Case Law on International Social Security Law for Migrants

A second case on the refunding of contributions for housing benefits was published in 2017 – similar to the one published in 2016⁵⁰ in which the Supreme Court of Justice (SCJN) granted the right to have housing contributions refunded to a foreigner who had not yet met the requirements, based on the fact that the person's stay in the country had ended.

On 9 February 2011, a Venezuelan national filed a lawsuit with the Federal Conciliation and Arbitration Board against Petroleos Mexicanos and the National Housing Fund for Workers (INFONAVIT) for the payment of housing contributions made to her individual retirement savings fund account.

The Board determined that the benefits consisting of the resources of INFONAVIT 97 could not yet be returned since the person did not meet the requirements established by law: to be 60 years of age and to be unemployed.

The foreigner filed for a direct *amparo*, alleging that as a foreign national it was not in her interest to remain in the country any longer since her employment relationship had ended. The SCJN ruled that the resources of her individual housing account be returned to her as this was an exception to the rule since she was a foreigner who, having ended her employment relationship, would return to her country of origin and cease paying contributions to Mexican social security institutions before attaining the required age and without receiving a pension which, of course, would not be paid.⁵¹

4. SELECTION OF IMPORTANT MONOGRAPHS OR ARTICLES

CÁMARA DE DIPUTADOS, Pensiones y jubilaciones en México, México, 2017, en: <http://www5.diputados.gob.mx/index.php/esl/content/download/69339/348996/file/CESO-P-IL-14ESTPensionesyJubilacionesMexico.pdf>

CASTELLANOS VARELA, Oscar de Jesús et al., Estudio Integral de las pensiones que otorga el IMSS, México, Instituto Mexicano de Contadores Públicos, 2ª ed. 2017.

⁴⁹ Consejería Jurídica del Poder Ejecutivo del Estado de Morelos, *Ley de Atención Integral para Personas con Discapacidad*, México, 2017, available at: <http://marcojuridico.morelos.gob.mx/archivos/leyes/pdf/LDISCAPAEM.pdf>, (accessed: 30 April 2018).

⁵⁰ Sistema de Ahorro para el Retiro, Tesis: I.7o.T.17 L, Semanario Judicial de la Federación y su Gaceta, Décima Época, t. III, April 2016, p. 2554.

⁵¹ Sentencia de Amparo directo 295/2016, 22 December 2016, date of publication of the isolated opinion: 12 May 2017 in: Gaceta del Semanario Judicial de la Federación, Tesis: VII.2o.T. 110 L(10a.), May 2017, Décima Época, Registro 2014284, Segunda Sala.

COMISIÓN NACIONAL DE DERECHOS HUMANOS, La Seguridad Social debe ser un derecho para todas las personas en la Ciudad de México, Boletín de prensa 11/2017, México, 2017, en: <http://cdhdfbeta.cdhdf.org.mx/wp-content/uploads/2017/01/boletin112017.pdf> (accessed: 12 april 2018).

COMISIÓN NACIONAL DE DERECHOS HUMANOS, Derecho humano a la seguridad social, CNDH, México, 2017, en: http://www.cndh.org.mx/sites/all/doc/cartillas/2015-2016/14-DH_Seguridad_social.pdf.

FARFÁN MENDOZA, Guillermo, México. La constitución de 1917 y las reformas a los sistemas de pensiones, Revista Latinoamericana de Derecho Social, Núm. 24, Enero-Junio 2017 p. 3.

FLORES PACHECO, Moisés Israel, Comentarios a la acción de inconstitucionalidad 101/2014 resuelta por la Suprema Corte de Justicia de la Nación de México. Proporcionalidad en normas de seguridad, Revista Latinoamericana de Derecho Social, Núm. 25, Julio-Diciembre, México, 2017 p. 223.

HERRERA PEREZ, Alberto, Sustitución de prestaciones legales por prestaciones contractuales (comentarios a la jurisprudencia 2a./j. 172/2013 (10a.) de la Suprema Corte de Justicia de la Nación). Revista Latinoamericana de Derecho social, Núm. 24, Enero-Junio, México, 2017, p. 207.

LÓPEZ ESTRADA, Silvia, Políticas de cuidado infantil en América Latina: Análisis comparado de Chile, Costa Rica, Uruguay y México, Frontera norte. 2017, vol. 29, n. 58, pp. 25-46. ISSN 2594-0260.

LOPEZ, San Martin, Norma Berenice, Estudio integral de las pensiones que otorga el IMSS, instituto Mexicano de Contadores Públicos, 2ª ed., México, 2017.

MARTÍN RODRÍGUEZ, Olaya, Flexibilidad y distribución del tiempo de trabajo. Especial referencia al caso español. Revista Latinoamericana de Derecho Social, Núm. 25, Julio-Diciembre, México, 2017, p. 3.

MARTÍNEZ, Verónica Lidia, La quimérica dicotomía entre derechos individuales y sociales, Revista Latinoamericana de Derecho Social, Núm. 24, Enero-Junio, México, 2017, p. 39.

MENDIZÁBAL BERMÚDEZ, Gabriela y ORTEGA MALDONADO, Juan Manuel, Equidad de género y protección social, Porrúa, 2ª ed., México, 2017.

MENDIZÁBAL BERMÚDEZ, Gabriela, Avances y retrocesos de la Seguridad Social en México 2015, Revista Latinoamericana de Derecho Social, Núm. 24, Julio-Diciembre, México, 2017 p. 71.

MENDIZÁBAL BERMÚDEZ, Gabriela y KURCZYN VILLALOBOS, Patricia, Apuntes sobre el derecho internacional de la seguridad social y su relación con América Latina, Revista Latinoamericana de Derecho Social, Núm. 25, Julio-Diciembre 2017 p. 37.

MOLINA RAMOS, Gustavo Enrique, El marco teórico de la seguridad social, UBIJUS, México, 2017.

OECD, Building an Inclusive Mexico, Paris, OECD, 2017.

ORGANIZACIÓN PARA LA COOPERACIÓN Y EL DESARROLLO ECONÓMICO (OCDE), Estudios económicos de la OCDE México, OCDE, México, 2017.

ORGANIZACIÓN PARA LA COOPERACIÓN Y EL DESARROLLO ECONÓMICO (OCDE), Hacia un México más fuerte e incluyente, avances y desafíos de las reformas, México, OCDE, 2017.

PÉREZ CHÁVEZ, José, et al., Guía práctica laboral y de seguridad social 2017, México, ed. Tax, 2017.

PÉREZ CHÁVEZ, José y FOL OLGUÍN, Raymundo, Previsión social. Guía práctica, fiscal, laboral y de seguridad social 2017, México, 2017.

RAMÍREZ CHAVERO, Iván, Derecho de la Seguridad Social, Flores, México, 2017.

RUIZ BUENROSTRO, Ángel Eduardo, Bases mínimas para una Seguridad Social Universal, Porrúa, México, 2017.

RUIZ MORENO, Ángel Guillermo, La constitución mexicana de 1917 y su peculiar vinculación con el Derecho de la Seguridad Social del siglo XXI, Revista de la Facultad de Derecho de México, t. LXVII, Núm. 267, Enero-Abril 2017 p. 467.

RUIZ MORENO, Nuevo Derecho Social de la Seguridad Social, Porrúa, ed. 14, México, 2017.

SÁNCHEZ-TORRES, Diana Alejandra, Accesibilidad a los servicios de salud: debate teórico sobre determinantes e implicaciones en la política pública de salud, Revista Médica del Instituto Mexicano del Seguro Social, No. 2017.

TREJO SÁNCHEZ, Karina, Conceptualización de los derechos humanos desde la perspectiva de género en relación con la reforma laboral, Revista Latinoamericana de Derecho social, Núm. 24, Enero-Junio, México, 2017, p. 133.

5. UPDATE OF RESEARCH RESOURCES

ACCIÓN CIUDADANA FRENTE A LA POBREZA, Organización, México, 2017, en: <http://www.cohesionsocial.mx/quienes-somos/organizacion>

ACCIÓN CIUDADANA FRENTE A LA POBREZA, 21 millones de personas trabajan y no les alcanza, México, 2017, en: <http://www.cohesionsocial.mx/comunicacion-y-publicaciones/sala-de-prensa/opinion-de-rogelio-gomez-hermosillo/21-millones-de>

ANIMAL POLÍTICO, Gasolina subirá hasta 20% en enero de 2017; estos son los nuevos precios, México, 2017, en: <https://www.animalpolitico.com/2016/12/precio-gasolina-aumento-2017/>

CÁMARA DE DIPUTADOS, Avalan reformas para que madres trabajadoras puedan transferir semanas de descanso posterior al parto, Boletín No. 3422, 04-04-2017. en: <http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Boletines/2017/Abril/04/3422-Avalan-reformas-para-que-madres-trabajadoras-puedan-transferir-semanas-de-descanso-posterior-al-parto>

CÁMARA DE DIPUTADOS, Comunicación social, México, 2017, en: <http://www5.diputados.gob.mx/index.php/esl/Comunicacion/Agencia-de-Noticias/2017/02-Febrero/21/5987-Aprueban-diputados-reformas-a-la-Ley-Federal-del-Trabajo-para-actualizar-las-tablas-de-enfermedades-del-trabajo-y-de-valoracion-de-incapacidades-permanentes>

CÁMARA DE DIPUTADOS, Gaceta Parlamentaria, México, 2017, en: http://www.diputados.gob.mx/LeyesBiblio/iniclave/CD-LXIII-II-2P-169/02_dictamen_21feb17.pdf

CÁMARA DE DIPUTADOS, LXIII Legislatura, Iniciativa con proyecto de decreto por el que se expide la Ley del Instituto Federal de Conciliación y Registro Laborales, en: http://www.senado.gob.mx/sgsp/gaceta/63/3/2017-12-071/assets/documentos/Iniciativa_Justicia_Laboral_19012018.pdf

CONSEJERÍA JURÍDICA DEL PODER EJECUTIVO DEL ESTADO DE MORELOS, Ley de Atención Integral para Personas con Discapacidad, México, 2017, en: <http://marcojuridico.morelos.gob.mx/archivos/leyes/pdf/LDISCAPAEM.pdf>

CONSEJO NACIONAL DE EVALUACIÓN DE LA POLÍTICA DE DESARROLLO SOCIAL, Evolución de las líneas de bienestar y de la canasta alimentaria, CONEVAL, México, 2017, en: <http://www.coneval.org.mx/Medicion/MP/Paginas/Lineas-de-bienestar-y-canasta-basica.aspx>

CONSEJO NACIONAL DE EVALUACIÓN DE LA POLÍTICA DE DESARROLLO SOCIAL, CONEVAL informa la evolución de la pobreza 2010-2016, México, 2017, p. 1, en: <https://www.coneval.org.mx/SalaPrensa/Comunicadosprensa/Documents/Comunicado-09-Medicion-pobreza-2016.pdf>

DIARIO OFICIAL DE LA FEDERACIÓN, ACUERDO 43.1356.2016 de la Junta Directiva por el que se aprueba el Reglamento para la Dictaminación en Materia de Riesgos del Trabajo e Invalidez del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado, México, 2017, en: http://www.dof.gob.mx/nota_detalle.php?codigo=5472982&fecha=24/02/2017

DIARIO OFICIAL DE LA FEDERACIÓN, Presupuesto de Egresos de la Federación para el año 2016, DOF, en: http://dof.gob.mx/nota_detalle.php?codigo=5417699&fecha=27/11/2015

DIARIO OFICIAL DE LA FEDERACIÓN, Presupuesto de Egresos de la Federación para el año 2017, DOF, en: http://www.dof.gob.mx/nota_detalle.php?codigo=5463184&fecha=30/11/2016

EL FINANCIERO, 2017, año record para las Afore en México, México, 2017, en: <http://www.elfinanciero.com.mx/economia/2017-ano-record-para-las-afore-en-mexico.html>

EL UNIVERSAL, Panorama de la salud en México, México, 2017, en: <http://www.eluniversal.com.mx/entrada-de-opinion/articulo/lilia-merodio-reza/nacion/2017/07/7/panorama-de-la-salud-en-mexico>

INSTITUTO MEXICANO DEL SEGURO SOCIAL, Prensa: El IMSS recibe recomendación de la CNDH, con motivo de la negativa de otorgamiento de pensión por viudez a concubinos de parejas homosexuales, México, 2017, en: <http://www.imss.gob.mx/prensa/archivo/201711/358> fecha de consulta: 09 de abril de 2018.

INSTITUTO MEXICANO DEL SEGURO SOCIAL, Mexicanos podrán recibir servicios en cualquier Unidad Médica sin importar si tienen o no seguridad social, IMSS, México, 2017, en: <http://www.imss.gob.mx/prensa/archivo/201703/SSA03>

INSTITUTO NACIONAL DE ESTADÍSTICA Y GEOGRAFÍA, Estimación oportuna del producto interno bruto en México durante el cuarto trimestre de 2017, INEGI, México, 2017.

INSTITUTO NACIONAL DE ESTADÍSTICA Y GEOGRAFÍA, Resultados de la encuesta nacional de ocupación y empleo, INEGI, México, 2017, en: http://www.inegi.org.mx/saladeprensa/boletines/2017/enoe_ie/enoe_ie2017_11.pdf

MERODIO REZA, LILIA, Panorama de la Salud en México, El Universal, México, 2017, en: <http://www.eluniversal.com.mx/entrada-de-opinion/articulo/lilia-merodio-reza/nacion/2017/07/7/panorama-de-la-salud-en-mexico>

PRESIDENCIA DE LA REPÚBLICA, 38 mil nuevos empleos en julio 2017, Presidencia de la República, México, 2017, en: <https://www.gob.mx/presidencia/articulos/38-mil-nuevos-empleos-en-julio-2017>

PRESIDENCIA DE LA REPÚBLICA, 5to informe de gobierno 2016-2017, Presidencia de la Republica, México, 2017.

SALDAÑA E., IVAN, Piden reformar Ley del IMSS para garantizar pensión por viudez, Excélsior, México, 2017, en: <http://www.excelsior.com.mx/nacional/2017/06/21/1171205>

SECRETARÍA DE DESARROLLO SOCIAL, Actualizan tabla de enfermedades de trabajo, México, 2016, en: <https://www.gob.mx/stps/prensa/actualizan-tabla-de-enfermedades-de-trabajo>, (accessed: 26 April 2018).

SECRETARÍA DE DESARROLLO SOCIAL, Sedesol contribuye a mejorar la alimentación de más de medio millón de mexicanos en 5,388 comedores comunitarios”, México, 2017, en: <https://www.gob.mx/sedesol/es/articulos/sedesol-contribuye-a-mejorar-la-alimentacion-de-mas-de-medio-millon-de-mexicanos-en-5-324-comedores-comunitarios?idiom=es>

SECRETARÍA DE DESARROLLO SOCIAL, El Programa Pensión para Adultos Mayores tiene nuevas reglas de operación, México, 2017, en: <https://www.gob.mx/sedesol/es/articulos/el-programa-pension-para-adultos-mayores-tiene-nuevas-reglas-de-operacion?idiom=es>

SECRETARÍA DE DESARROLLO SOCIAL, Sedesol apoya a más de 1 millón 700 mil madres y padres de familia a través de las Estancias Infantiles, México, 2017, en: <https://www.gob.mx/sedesol/es/articulos/sedesol-apoya-a-mas-de-1-millon-700-mil-madres-y-padres-de-familia-a-traves-de-las-estancias-infantiles?idiom=es>

SECRETARÍA DE DESARROLLO SOCIAL, Salarios mínimos, STPS, México, 2017, en: https://www.gob.mx/cms/uploads/attachment/file/175865/Tabla_de_salarios_minimos_vigentes_a_partir_de_01_enero_2017.pdf

SUPREMA CORTE DE JUSTICIA DE LA NACIÓN, Crónicas del pleno y de las salas, SCJN, México, 2017, en: https://www.scjn.gob.mx/sites/default/files/sinopsis_asuntos_destacados/documento/2017-05/2S-260417-JLP-6043.pdf

TRANSPARENCIA PRESUPUESTARIA OBSERVATORIO DEL GASTO, Presupuesto de Egresos de la Federación 2017, México, 2017, en: http://www.transparenciapresupuestaria.gob.mx/work/models/PTP/Home/PEF2017/PEF_2017.pdf

6. SUPREME COURT RULINGS DISCUSSED, IN ORDER OF APPEARANCE

PENSIÓN POR INVALIDEZ DE UN ADULTO MAYOR. Para su otorgamiento, éste goza de la presunción de que se encuentra imposibilitado para procurarse, mediante un trabajo igual, una remuneración superior al 50% de la habitualmente percibida durante el último año de servicios. Tesis: VII.2o. T107 L, Semanario Judicial de la Federación, Décima Época, t.IV, Marzo de 2017, p. 2834.

OTORGAMIENTO DE PENSIÓN POR VIUDEZ SIN DISTINCIÓN DE GÉNERO es contraria a la garantía de igualdad entre hombres y mujeres prevista en el artículo 4o. constitucional, la norma que establece el derecho del viudo o concubinario a recibir la pensión por viudez, condicionando a que se acredite que éste se encuentra totalmente incapacitado y que dependía económicamente de la trabajadora fallecida. amparo directo en revisión 6043/2016 Segunda Sala de la Suprema Corte de Justicia de la Nación.

PENSIÓN DE VIUDEZ. HABER ESTADO UN AÑO EN MATRIMONIO CON EL DE CUJUS, ES DESPROPORCIONAL, AL CONSTITUIR LA MUERTE UN HECHO FORTUITO la restricción al derecho fundamental a una pensión de viudez, prevista en el artículo 132, fracción II, de la Ley del Seguro Social, es desproporcional, porque impone una carga al particular que no está en posibilidad de cumplir, al exigirle haber estado un año en matrimonio con el de cujus, cuando al contraer nupcias éste tuviera más de cincuenta y cinco años de edad, pues se soslaya que la muerte constituye un hecho fortuito. Tesis: XI.1o.A.T.81 A (10a.), Marzo de 2017, Semanario Judicial de la Federación, Décima Época, Registro 2015976 , Tribunal Colegiado de Circuito.

PERSONAS CON ENFERMEDADES CRÓNICO DEGENERATIVAS. De conformidad con el artículo 1o. de la Constitución Federal, el órgano jurisdiccional debe velar para que ejerzan adecuadamente su derecho-obligación de visitas y convivencias, a fin de que no sufran discriminación por cuestiones de salud. Tesis: I.3o.C.1 CS, Semanario Judicial de la Federación, Décima Época, t.IV, Diciembre de 2017, p. 2230.

DERECHO A LA PROTECCIÓN DE LA SALUD. Su tutela se encuentra plenamente satisfecha por los artículos 4o. de la constitución federal; 2o., 23, 24, fracción I, 27, fracciones III, IV, VIII y X, 28, 29, 32 y 33 de la Ley General de Salud, por lo que es innecesario considerar el contenido de los tratados o instrumentos internacionales al respecto. Tesis: I.8o.A.6 CS, Semanario Judicial de la Federación, Décima Época, t. VI, octubre de 2017, p. 2431.

INSTITUTO DE SEGURIDAD Y SERVICIOS SOCIALES DE LOS TRABAJADORES DEL ESTADO. Los artículos 6, fracción XII, inciso a), 39, 40, 41, fracción I, 131 y 135, fracciones I y II, de la ley relativa, violan los derechos a la igualdad y no discriminación, a la familia y a la seguridad social de las parejas integradas por personas del mismo sexo. Tesis: 2ª. IX/2017, Semanario Judicial de la Federación, Décima Época, t. II, marzo de 2017, p. 1393.

TRABAJADORES EXTRANJEROS. TIENEN DERECHO A LA DEVOLUCIÓN DE LOS RECURSOS ACUMULADOS EN LA SUBCUENTA DE VIVIENDA. se advierte que, por regla general, para tener derecho a la devolución de los recursos que integran la subcuenta de Vivienda 97, es indispensable que el trabajador cuente con 60 años de edad o más, o que goce de una pensión de cesantía en edad avanzada, vejez, invalidez, incapacidad permanente total o permanente parcial del 50% o más. Sin embargo, dicha regla no prevé aquellos casos en que el trabajador sea un extranjero que concluyó la relación de trabajo que lo unía con su patrón y que volverá a su país de origen y dejará de cotizar ante las instituciones de seguridad social mexicanas, por lo que es suficiente para la entrega de esos recursos ante el inminente regreso a su país de origen.

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