

# A Life in Dignity for Vulnerable Populations in Mexico

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## I. Introduction

The scope of the state obligation to guarantee minimum subsistence protection is currently discussed in Mexico with regard to the action of each of the three branches of government (legislative, executive, and judicial), as it is clearly reflected in case law. First, minimum income benefits are established and provided for by the legislative branch, which guarantees them through legal reforms to the Political Constitution of the United Mexican States (CPEUM), labour laws, social security laws and tax laws. Second, the federal executive establishes a large number of social assistance programmes through executive orders, which are then emulated by state governments to provide income to different vulnerable social groups of

the Mexican population and are sometimes elevated to the rank of law. Finally, the judiciary expands the scope of existing provisions through its interpretation of them, providing a comprehensive approach in granting social security benefits and social programmes aimed at guaranteeing the right to the minimum conditions for life and thereby ensuring a life in dignity.

The country's social policy objectives regarding minimum income are reflected in the slogan "The Poor First"<sup>1</sup>, which has imbued government actions aimed at implementing legislative changes, assistance programmes and political campaigns, while permeating judicial rulings. The allocated budget for all social programmes in the category "wellbeing" (welfare) in 2024 was MXN\$ 543.93 billion<sup>2</sup> (US\$ 32,113,746,258.346),<sup>3</sup> a 25.2% increase from the previous tax year, in which it was MXN\$ 414.63 billion (US\$ 24,479,846,732.4).<sup>4</sup> A large part of these resources will be earmarked for the programmes analysed in Section II.2. of this chapter. However, all these measures are primarily targeted at people living in conditions of poverty and belonging to a vulnerable group, and are not designed for the general population.

In this context, data on the socioeconomic context of poverty in the country becomes critically important. The National Institute of Statistics and Geography (INEGI) and the latest measurement report from the National Council for the Evaluation of Social Development Policy (CONEVAL) from 2023 show that 46.83 million out of 129 million Mexicans<sup>5</sup> were living in income poverty (36.3% of the total population), and 9.16 million of these were living in extreme poverty.<sup>6</sup>

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1 This slogan has been incorporated into the National Development Plan 2019-2024 of the current administration.

2 Cámara de Diputados, 'Ramo 20 Bienestar' (2024) <<https://www.cefip.gob.mx/publicaciones/nota/2024/notacefp0232024.pdf>> accessed 2 June 2024.

3 The exchange rate used for this chapter is MXN\$ 16.9377 (Mexican pesos) = US\$ 1 (American dollar), data from the Bank of Mexico from 1 June 2024, <<https://www.banxico.org.mx/tipcamb/tipCamIHAction.do?idioma=sp&fechaInicial=dd/mm/aaaa&fechaFinal=dd/mm/aaaa&salida=HTML>> accessed 20.6.2024.

4 Cámara de Diputados, 'Ramo 20 Bienestar' (n 2).

5 INEGI, 'Estadísticas a propósito del día mundial de la población. Datos Nacionales' (2023) <[https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2023/EAP\\_DMPO23.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/aproposito/2023/EAP_DMPO23.pdf)> accessed 20.6.2024.

6 CONEVAL is a decentralized public entity of the Federal Public Administration, with autonomy and technical expertise to generate objective information about the state of social policy and poverty measurement in Mexico; CONEVAL, '¿Quiénes somos?'<<https://www.coneval.gob.mx/quiensomos>>

To examine the state's obligation to guarantee a life in dignity and the connections between minimum income schemes and other social protection systems in Mexico, this chapter is divided into 4 sections. After this short introduction, it will delineate the constitutional framework on dignity, poverty and its relationship with minimum income, social security, social assistance, in particular the scope of the state's obligation to guarantee a minimum of subsistence to poor people, whether it be workers or people in vulnerable conditions. The third section analyses the state's obligation in social protection schemes for vulnerable individuals and covers the following three aspects: enforceability and accessibility of the benefits, levels of protection, and conflicting arguments between protection for vulnerable groups and the universalism of benefits to ensure a life in dignity as well as the outcome of the social programmes on poverty. Finally, some conclusions are drawn on the consequences of the lack of a universal programme regarding the guarantee of a life in dignity for the Mexican population.

## II. Overview

### 1. Normative Background

#### a) Dignity in the CPEUM

The Mexican Constitution (CPEUM) embraces the idea that dignity is an essential quality of human beings, a universal attribute common to all. Because it is intrinsic to human beings, dignity is not something that can be granted by a legal system, i.e., it exists and is enforceable for all individuals, regardless of whether it appears in a rule.<sup>7</sup> In this sense, “dignity” appears in several articles of the CPEUM, including Article 1, which prohibits discrimination of any kind that threatens human dignity; Article 3, which states that education must be provided with full respect for the dignity of persons; Article 4, which stipulates that all families have the right to decent housing; and Article 25, which establishes that dignity should be a guiding principle of national development.

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(2022) <<https://www.coneval.org.mx/quienessomos/Paginas/Quienes-Somos.aspx>> accessed 20.6.2024.

7 G. Mendizábal-Bermúdez and M.J. López, ‘Análisis de la dignidad del trabajador en el contexto de la globalización. El ejemplo de México’ Revista Chilena de Derecho del Trabajo y de la Seguridad Social 3 (2012) 6, pp. 165-194.

In line with constitutional provisions, the Supreme Court of Justice of the Nation (SCJN) has established case law that analyses and recognises dignity from various perspectives. First, dignity must be considered as a legal principle and right. Dignity should not be confused with a moral precept because it is considered a guiding principle that shall permeate all national laws. It is also a fundamental right and as such has the rank of a legal principle that imposes a constitutional mandate on all entities in the country – authorities, institutions and individuals – obliging them to respect and protect all individuals as persons, and thereby prohibiting that they be humiliated, degraded, debased or objectified in any context.<sup>8</sup> In this sense, dignity is also to be considered as a limit to rights. Dignity restricts the exercise and enjoyment of rights so as not to infringe on the dignity of another person, recalling the Kantian maxim that human beings must always be treated as an end, never merely as a means. The Court also considered dignity as an objective guarantee, and establishes the link between basic needs and dignity since a person can only live in dignity when their basic needs are met. Only then can they develop their potential as human beings.<sup>9</sup>

#### b) Relevant Constitutional Provisions

The Mexican Constitution does not explicitly mention a universal minimum income, nor does it provide for the obligation to guarantee income protection mechanisms. While it does call on the state to ensure human rights for all people and provide dignified living conditions and specific rights to vulnerable groups, the lack of a constitutional inclusion of a universal minimum income as a subjective right means that these rights are often unattainable for many, as seen in the high rates of poverty and social deprivations mentioned above.

However, Article 1 of the CPEUM establishes that “all authorities, within the scope of their competencies, have the obligation to promote, respect, protect, and guarantee human rights in accordance with the principles of universality, interdependence, indivisibility, and progressivity”. A life in dignity is inextricably linked to human rights. Moreover, in 2020, the CPEUM established the state’s responsibility to provide a minimum in-

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8 Tesis, Jurisprudencia, 1a./J. 37/2016 (10a.).

9 Tesis aislada 1a. XCVII/2007 (9a.).

come through: a non-contributory pension for older adults; scholarships for students at all levels coming from poor families; and financial support for persons with disabilities. After this reform, the following social human rights are now explicitly recognised in the Mexican Constitution: Article 4 acknowledges the right to the minimum conditions for life by declaring the state's responsibility to ensure access to nourishing, sufficient, and quality food; comprehensive and free health services; sufficient and safe water and sanitation services; dignified housing; the means to access, spread, and develop culture; as well as the guarantee of a minimum income for vulnerable groups (financial support to persons with permanent disabilities, with priority given to indigenous peoples, Afro-Mexicans, people living in poverty; non-contributory pensions for individuals over the age of 68; scholarships for students at all levels of the public education system). It should be noted that Article 4, while not defining a national minimum income, has been established as the grounds for the judicial rulings on the right to the minimum conditions for life on the one hand, and as the basis for the minimum income of certain social groups, on the other.

Article 3 provides for the right to education, Article 5 enshrines the right to work, and Article 123 covers labour rights, including minimum wages and the right to social security for workers.

Likewise, Article 2, Section B, clause VII, of the CPEUM focuses on the state's obligation to protect the income of indigenous peoples and communities by establishing the necessary institutions and policies to guarantee their rights, support their productive activities to achieve economic self-sufficiency, create new jobs, and increase their productive capacity, among other things.

Following the constitutional precepts, the legislature has regulated these rights in different pieces of legislation, such as the General Health Law, General Education Law, Federal Labor Law, Social Security Law, and General Social Development Law.

### c) Concurrent Competences of the States

Article 124 of the CPEUM establishes the residual powers of the states by providing that all matters not expressly reserved to the federal government may be the subject of legislation by the federated entities and concurrent policies may also exist. There is a General Law on Social Development, applicable to both the federal and federated entities, which sets out in more

detail how these concurrent competencies are distributed and coordinated across the three levels of government. Article 9 of the General Law of Social Development specifies that the municipalities, the governments of the federated entities and the federal executive branch, in their respective spheres, will formulate and apply assistance policies for the benefit of individuals, families, social groups and, where appropriate, indigenous and Afro-Mexican peoples and communities in vulnerable situations, allocating the necessary budgetary resources and establishing quantifiable goals.

An example of particularly forward-thinking policy is the recently drafted Political Constitution of Mexico City. It establishes a general system of social well-being, which includes mechanisms to ensure the right to a minimum subsistence income for a life in dignity, prioritising persons living in poverty. Within the competence of the state, the legislation on the issue shall define the criteria and procedures for public social programmes and cash transfers, while guaranteeing their efficient and transparent use.<sup>10</sup>

However, in designing their welfare policies, federated entities must conform to the national policy of the General Law on Social Development. Moreover, the scope and scale of the states' schemes are not comparable with those of the federal programmes, because the economic resources are allocated and exercised on the part of the federation. Therefore, this contribution focuses on federally provided schemes of assistance.

#### d) Case Law and Consequences of the Limited Existence of Subjective Rights

The judicial branch is made up of various jurisdictional bodies, with the SCJN as the highest court in Mexico. Given that there is no explicit concept of minimum income in the CPEUM, the extent of the state obligation to guarantee basic living conditions is unclear, thus opening up the possibility for the judicial branch to interpret the existing constitutional legal provisions. As mentioned above, only few social benefits in Mexico are enshrined in constitutional subjective rights and have established regulatory provisions. These include, on the one hand, the workers' right to a minimum wage and to social insurance and, on the other hand, a guaranteed minimum income for vulnerable groups, such as people with permanent

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<sup>10</sup> Constitución Política de la Ciudad de México, Section 3A (Regarding Social Policy), Article 17 (Social Welfare and Distributive Economy).

disabilities, indigenous peoples, Afro-Mexicans, people living in poverty, people over 68 years of age with non-contributory pensions, as well as scholarships for students in the public education system.

The actual implementation of these subjective rights exhibits important shortcomings, and this is even more pronounced for people who cannot be identified as belonging to a vulnerable group and often require judicial intervention to safeguard their rights.

In this framework, some SCJN judgments have set certain precedents framing minimum income as an individual right. In particular, the Court has elaborated the concept of a “vital minimum” (mínimo vital). First, it has established that the minimum conditions for life consist of the skills, basic conditions, and social benefits a person needs to be able to live unfettered by fear and the burdens of poverty, in such a way that the scope of the right to the minimum conditions for life extends to all the positive or negative measures needed to prevent a person from being unconstitutionally reduced in terms of their intrinsic value as a human being for not having the material conditions that allow them to lead a dignified existence.<sup>11</sup> In other words, certain minimum conditions for life are considered necessary for human dignity.

Second, the right to the minimum conditions for life has been derived from a systematic interpretation of the fundamental rights enshrined in the General Constitution, among which are Articles 1 (dignity), 3 (education), 4 (social human rights), 27 (private property) and 123 (right to decent work and minimum wage).<sup>12</sup> In other court precedents, the SCJN has mentioned that the right to the vital minimum entails the state’s obligation to ensure access to minimum living conditions, including food, housing, health, education and a healthy environment.<sup>13</sup> Third, in cases related to the vital minimum the judiciary has reminded the legislature of their obligation for Mexican constitutional law to be consistent with the Universal Declaration of Human Rights and the International Covenant on Economic, Social, and Cultural Rights to ensure the right to a dignified standard of life.<sup>14</sup>

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11 Tesis I.9o.A.1 CS (10a.) (2016) and Tesis Ia. XCVII/2007 (9a.).

12 Tesis Ia. XCVII/2007 (9a.).

13 Tesis 2a./J. 27/2017 (10a.) and Tesis III.2o.T.62 L (11a.) (2024).

14 Tesis I.9o.A.1 CS (10a.) (2016).

However, the implications and consequences of the doctrine of a vital minimum have not been properly elucidated.<sup>15</sup> Moreover, it should be mentioned that these SCJN judgments are binding, but they only benefit the citizen who files an *amparo* and not the entire population.

It is important to observe that case-law criteria continue to evolve. For example, in 2018, it was debated whether increases to pensions should be proportional to increases to the minimum wage, on the grounds that both are intrinsically linked to the right to a vital minimum. Although the SCJN initially dismissed this appeal,<sup>16</sup> in April 2024, the relationship between increases to the minimum wage and to pensions was subsequently upheld, marking progress towards the direct enforceability of these rights.<sup>17</sup>

These developments underscore the continued importance of case law and court interpretation in strengthening the effective protection of constitutional rights related to well-being and a dignified life for people in Mexico.

#### e) Importance of the Minimum Wage

The one aspect of the vital minimum that is clearly regulated by the legislature and elaborated by the case law is related to the minimum wage. This, according to Mexican law, is the lowest amount a worker may receive in cash for services rendered in a workday.<sup>18</sup>

The minimum wage is of paramount importance in Mexico. It helps bridge the gaps of inequality that emerge in societies by creating conditions to prevent or eradicate poverty across various aspects of life in a society. The right to a minimum wage is enshrined in Article 123 of the Mexican Constitution. According to this provision, the general minimum wage must be sufficient to guarantee the material, social and cultural needs of a family and to cover the compulsory education of the children.

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15 E. Ferrer Mac-Gregor and R.S. Gil, 'Foreign Precedents in Mexican Constitutional Adjudication' Mexican Law Review 4 (2012) 2, pp. 293-307.

16 SCJN, *amparo directo en revisión 2373/2018*, available at: <[https://www.scjn.gob.mx/sites/default/files/listas/documento\\_dos/2022-09/42.pdf](https://www.scjn.gob.mx/sites/default/files/listas/documento_dos/2022-09/42.pdf)> accessed 20.6.2024.

17 Tesis, la I.2o.T.15 L (11a.) 8 (2024).

18 Article 90 Federal Labor Law.

## 2. Social Benefits

The protection of a life in dignity in Mexico is still linked to poverty and vulnerability, or to the status of a worker. In other words, some measures protect persons living in poverty and belonging to a vulnerable group (indigenous, Afro-Mexican, older adults or youth); other benefits protect low-income workers in a way that prevents them from receiving less than the minimum wage in addition to ensuring their access to social insurance coverage.

It is clear that the benefits directed at ensuring a life in dignity are not really interconnected. Some benefits only apply to workers in the formal sector while others like social programmes and tax exemptions are aimed at the poorest or the most vulnerable. The only exceptions are contributory and non-contributory old-age pensions, which are cumulative, in the sense that will be explained below.<sup>19</sup>

The structure for organising and delivering social benefits in Mexico consists of public social insurance and government agencies providing social assistance at both federal and state levels. The following description will concentrate on the federal level. The different benefits available, how they work and their relevance for protecting workers, as well as programmes and measures to alleviate poverty for the most vulnerable and the few existing tax measures are described below.

### a) Protection for Workers

#### aa) Minimum Wage and Social Security

The concept of a life in dignity in terms of a minimum subsistence for workers is based on the legal construct of the state's obligation as established in Article 123, which provides both the right to a minimum wage and the guarantee of social security for workers.

The minimum wage, as mentioned before, is of paramount importance in the constitutional construction of the minimum conditions of life and is supposed to guarantee a life in dignity to Mexican families.

As of the second quarter of 2023, more than 20 million workers among the economically active population in Mexico (approximately 34.80%) were

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<sup>19</sup> See below, Section II.2.b) ee).

paid the equivalent of only one minimum wage for their work.<sup>20</sup> The CONASAMI, the National Minimum Wage Commission, sets the minimum amount to be received per workday (8 hours of work), categorised into professional minimum wages assigned to the different occupations, such as bricklayer, carpenter or nurse. There are 61 categories, and the corresponding wages range from MXN\$ 250.00 (US\$ 12.28) per day to MXN\$ 557.00 (US\$ 27.4) per day in 2024.

General minimum wages are also sorted into geographical areas. The Northern Border Free Zone, which corresponds to the states of Baja California, Sonora, Chihuahua, Coahuila, Nuevo León, and Tamaulipas, offers a minimum wage of MXN\$ 374.89 per day (US\$ 22.13) which means a monthly income of MXN\$ 11,246.7 (US\$ 664) in 2024. Meanwhile, in the rest of the country, the minimum wage for the same year is MXN\$ 248.93 per day (US\$ 14.7), which means a monthly income of MXN\$ 7,468.00 (US\$ 440.9).<sup>21</sup>

The relevance of the minimum wage appears, however, limited if one compares the monthly minimum wage with the monthly cost of the basic food basket per person of MXN\$ 2,304.27 (US\$ 136) in urban areas and MXN\$ 1,767.03 (US\$ 104.32) in rural areas<sup>22</sup>. If we take into account that the average Mexican family is made up of 3.6 members, with 2.1 and 3.2 children in urban and rural areas, respectively, it follows that the minimum wage is not enough to cover even the minimal basic food needs of three people in urban areas, and that it much less covers other needs such as culture, education, and so on.

As for the national and state social security institutions, these are organised into 3 national social insurance programmes that provide comprehensive coverage (occupational hazard insurance; sickness and maternity insurance; severance at old age, old age, retirement, disability, and life insurances; childcare, and social benefits), one national insurance programme that awards housing benefits, and 26 state social insurance programmes, some offering comprehensive coverage and others only covering old age.

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20 INEGI, 'Ocupación 2022' (2022) available at: <<https://www.inegi.org.mx/app/tabulados/default.html?nc=602>> accessed 20.6.2024.

21 CONASAMI, 'Incremento a los Salarios Mínimos para 2024' (2024), available at: <<https://www.gob.mx/conasami/articulos/incremento-a-los-salarios-minimos-para-2024?idiom=es>> accessed 20.6.2024.

22 Cf. CONEVAL, 'Valor de la canasta alimentaria' (2022), available at: <<http://blog.coneval.gob.mx/wordpress/index.php/category/canasta-alimentaria/>> accessed 20.6.2024.

Unfortunately, they are not linked to each other in such a way for them to work together as a comprehensive system. Social insurance programmes are still employment-based (depending on the type of work relationship and the labour regulations for workers) with the exception of social groups that receive medical care without being workers, such as students or people enrolled in the IMSS voluntary family health insurance.

In 2022, 64.7 million people (50.2% of the population) did not have access to social security.<sup>23</sup> This is largely due to the high rates of informal economy jobs in the country. In August 2023, the number of people working in the informal economy stood at 32.7 million.<sup>24</sup>

#### bb) Old-Age Contributory Pension

Within the social insurance programmes, special mention must be made of cash transfers for the elderly. These benefits are especially relevant to the guarantee of a life in dignity for the Mexican population, as the poverty rate for this age group is very high (31.1%) and Mexico is an aging country: in 1990, the population aged 60 and older represented 6.4% of the total population, a percentage that rose to 9.9% in 2010 and will reach 21.5% in 2050.<sup>25</sup>

For the contributory pension, the 2021 reform to the Social Security Law reduced the required number of contribution weeks from 1,250 to 750 (with 25-week increments each year to reach 1,000 weeks of contributions by 2031) and increased employer contributions from 5.15% to a maximum of 13.87% of the worker's salary. This has enabled 38,000 workers<sup>26</sup> who would otherwise not have been able to meet the requirements to obtain an old-age or severance at old age pension in 2021 and 2022. This same reform

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23 Secretaría de Bienestar, '5 Informe de labores' (2023) p. 93, available at: <<https://www.gob.mx/cms/uploads/attachment/file/853167/BIENESTAR-5to-Informe-de-Labores.pdf>> accessed 20.6.2024.

24 INEGI, 'Comunicado de prensa número 568/23' (2023) p. 9, available at: <[https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2023/enoen/enoen2023\\_09.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2023/enoen/enoen2023_09.pdf)> accessed 20.6.2024.

25 K.D. González, 'Envejecimiento demográfico en México: análisis comparativo entre las entidades federativas' (2015) p. 115, available at: <[http://www.conapo.gob.mx/work/models/CONAPO/Resource/2702/06\\_envejecimiento.pdf](http://www.conapo.gob.mx/work/models/CONAPO/Resource/2702/06_envejecimiento.pdf)> accessed 20.6.2024.

26 IMSS, 'Reforma a la Ley del Seguro Social de 2020 ha recuperado la esencia del sistema pensionario' (2022), available at: <<https://www.imss.gob.mx/prensa/archivo/202207/367>> accessed 20.6.2024.

also modified the requirements needed to obtain a guaranteed pension, as well as the amounts to be granted.

It should first be noted that the law defines a guaranteed pension as one granted by the state to persons who meet the age requirement (above 60) and a minimum of at least 825 weeks of contributions,<sup>27</sup> but whose individual account funds are insufficient to secure a pension paid by an insurance company (so-called lifelong annuity) or a Retirement Funds Administrator (so-called programmed withdrawal)<sup>28</sup>.

This guaranteed pension provides a minimum amount variable by law<sup>29</sup> to be paid based on the individual's age, weeks of contribution, and salary range. If a worker meets the requirements, the amount of the guaranteed pension ranges from a minimum of MXN\$ 2,622.00 per month (US\$ 154.8) to a maximum of MXN\$ 8,241.00 per month (US\$ 486.58). In other words, a distinction is made based on the number of contributions, age, and salary.

This reform is designed to allow workers with insufficient resources to secure their severance at old age or an old-age pension so they can enjoy a decent income through a guaranteed pension, seeing that in the past, this pension was only equal to the general minimum wage.

Lastly, it should be noted that Mexican social security provides family allowances to pensioners based on their family ties and the amount of the pension: an additional 15% of the amount of their pension for a spouse, 10% for each child under 16 years of age, 10% for children between 16 and 25 years of age who are students without an insurance of their own, 10% for children unable to work, and 10% for each ascendent, if there is no descendant or spouse. In the absence of these beneficiaries, an additional 15% is granted as welfare assistance. These economic allowances are part of the social security benefits to financially help pensioners and their families as per their needs and circumstances.<sup>30</sup>

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27 Article 170 of the Social Security Law.

28 Gobierno de México, 'Pensión por Régimen 97' (2021), available at: <<https://www.gob.mx/consar/articulos/por-regimen-de-97#:~:text=La%20Pensi%C3%B3n%20Garanizada%20es%20aquella,Vitalicia%20o%20un%20Retiro%20Programado>> accessed 20.6.2024.

29 Article 170 of the Social Security Law.

30 Cf. Article 138 of the Social Security Law.

## b) Programmes and Measures to Alleviate Poverty

Social policy in Mexico has been implemented through actions to create better living conditions for the country's most vulnerable groups. Although the design of social assistance schemes for vulnerable populations changes with each change of government, their objective remains that of eradicating conditions of socioeconomic inequality and reducing poverty levels to create conditions to access a life in dignity at various stages of a person's life.

The current National Development Plan (NDP) 2019-2024 establishes the general focus on "well-being"; which aims to "guarantee the effective exercise of economic, social, cultural, and environmental rights", with a special focus on bridging gaps of inequality and conditions of vulnerability.<sup>31</sup>

Several social transfers have been established at the federal level in order to fulfil the aim presented in the NDP as well as the constitutional obligations enshrined in 2020 in Article 4. The available programmes can be classified by the age group of the targeted beneficiaries and families, which are always associated with poverty as a contributing factor to vulnerability: children, youth, the elderly, and persons with disabilities.

### aa) Benito Juárez Scholarship Programme for Basic Education

This scholarship is part of a much more extensive programme called the Family Well-Being Programme, which replaced the internationally acclaimed "*Prospera*" programme. It is currently a conditional educational cash transfer programme for children and adolescents under 14 years of age,<sup>32</sup> administrated by the Ministry of Welfare. Its main objective is to guarantee the children's right to education by providing families with children or adolescents in their basic education (approximately between 6 to 15 years old) with a scholarship of MXN\$ 920.00 (US\$ 54.31) a month per family in 2024. Although it is not stipulated whether it is only for families

31 Gobierno de México, 'Anexo XVIII-Bis del Plan Nacional de Desarrollo 2019-2024' (2019) p. 83, available at: <<https://gaceta.diputados.gob.mx/PDF/64/2019/abr/20190430-XVIII-1.pdf>> accessed 20.6.2024.

32 SEP, 'Reglas de Operación del Programa de Becas de Educación Básica para el Bienestar Benito Juárez para el ejercicio fiscal 2023' (2022), available at: <[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5676024&fecha=29/12/2022#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5676024&fecha=29/12/2022#gsc.tab=0)> accessed 20.6.2024.

living in poverty, the decree establishing the scholarship does mention its objective to strengthen inclusive and equitable education, aimed at people living in poverty or vulnerable conditions.<sup>33</sup> Moreover, the requirements to obtain the scholarship do establish two conditions of vulnerability. First, schools are prioritised based on their location in indigenous communities, in areas of high marginalisation, or with fewer than 50 inhabitants with no degree of marginalisation. Second, it accords priority also to children who are not enrolled in schools considered priorities but who are nonetheless considered 'victims' in the sense of the decree.<sup>34</sup>

It should be noted that the funds allocated to this programme are distributed in this order, based on the marginalisation index calculated by the National Population Council (CONAPO),<sup>35</sup> and are subject to the availability of resources.

Another noteworthy feature is that it does not formally establish a residency requirement. However, it does require submitting a birth certificate or equivalent document; certificates and/or report cards that attest to studies completed abroad, a document that accredits their school record, and the corresponding registration payments,<sup>36</sup> which makes this benefit also accessible to foreigners, as long as they are legally residing in the country.

As of August 2023, this programme has only extended to 3,336,323<sup>37</sup> beneficiaries out of the 33,145,240 students in basic education nationwide in the 2022-2023<sup>38</sup> school year. This means that approximately 10% of students

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33 DOF: 31/05/2019, DECRETO por el que se crea la Coordinación Nacional de Becas para el Bienestar Benito Juárez.

34 A person who has directly or indirectly suffered harm or the impairment of their rights as a result of a human rights violation or the commission of a crime. In addition, a victim or person with the status of victim shall be understood to be a migrant, refugee and/or displaced person.

35 Cf. CONAPO, 'Índices de marginación 2020' (2021) available at: <<https://www.gob.mx/conapo/documentos/indices-de-marginacion-2020-284372>> accessed 20.6.2024.

36 Cf. Gobierno del México, 'Revalidación de estudios de Primaria y/o Secundaria' available at: <[https://www2.aefcm.gob.mx/mstr/revalidacion/mas\\_informacion.jsp](https://www2.aefcm.gob.mx/mstr/revalidacion/mas_informacion.jsp)> accessed 20.6.2024.

37 Gobierno de México, 'Programas para el Desarrollo. Becas para el Bienestar Benito Juárez Educación Básica' (2023), available at: <<https://pub.bienestar.gob.mx/pub/programasIntegrales>> accessed 20.6.2024.

38 INEGI, 'Matrícula escolar por entidad federativa según nivel educativo, ciclos escolares seleccionados de 2000/2001 a 2022/2023' (2023), available at: <<https://www.inegi.org.mx/app/tabulados/interactivos/?pxq=ac13059d-e874-4962-93bb-74f2c58a3cb9>> accessed 20.6.2024.

in basic education receive this scholarship and that it can therefore not be classified as a universal programme.

**bb) Assistance Programme for the Well-Being of Children of Working Mothers**

This programme aims to contribute to improving access to care and education to enable children, adolescents, and young people up to the age of 23 living in vulnerable situations due to the absence of one or both parents, to fully exercise their social rights by providing them with financial support, which can be used for their care and to further their education.<sup>39</sup> As a precondition, the parent or guardian must be working, studying or looking for a job.

This programme is subject to the availability of resources, and priority is given to people living in indigenous municipalities or in populations with more than 40% Afro-Mexicans, areas of high deprivation, or marginalised zones.

The financial amounts provided vary depending on the conditions for which the support is granted. Minors without any type of disability receive the amount of MXN\$ 1,600 (US\$ 94.46) per child every two months with a maximum of three simultaneous allowances per family unless it involves multiple births.

In the case of minors with qualifying disabilities in this programme, MXN\$ 3,600 (US\$ 212.54) are provided every two months until the day before the child turns 6 years old. Finally, support for orphaned minors is granted according to the beneficiary's age range, going from MXN\$ 800 (US\$ 47.23) to MXN\$ 1,200 (US\$ 70.84) every two months.

As of August 2023, this programme had 200,947 beneficiaries under the category of children of working mothers and 41,428<sup>40</sup> under the category of maternal orphans. The programme is expected to continue throughout 2024.<sup>41</sup>

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<sup>39</sup> Gobierno de México, 'Programa para el Bienestar de las Niñas y Niños, Hijos de Madres Trabajadoras' (2022), available at: <<https://www.gob.mx/bienestar/acciones-y-programas/programa-para-el-bienestar-de-las-ninas-y-ninos-hijos-de-madres-trabajadoras>> accessed 20.6.2024.

<sup>40</sup> Ibid.

<sup>41</sup> Cf. López-Castro Fernanda, INFOBAE, 'AMLO afirma que presupuesto del 2024 incluirá aumento en apoyos del Bienestar; analiza ampliar becas para estudiantes'

cc) Youth Building the Future

Implemented in 2019 under the Ministry of Labor and Social Welfare, this programme aims to give young people between 18 and 29 years of age, who are not studying or employed at the time of applying for or while enrolled in the programme, the opportunity to acquire job training. The young beneficiaries receive professional training, financial assistance in the form of a monthly scholarship, which in 2024 was MXN\$ 7,572 (US\$ 447.05), and access to medical services provided by the IMSS by means of benefits granted for illness, maternity, and work-related accidents,<sup>42</sup> for a maximum of 12 months.<sup>43</sup>

Data from August 2023 shows that 246,808<sup>44</sup> young people have benefited from this programme. The only official data, presented in President Andrés Manuel López Obrador's fourth government report (2022),<sup>45</sup> indicates that 46% of apprentices have either been employed or take part in productive activities. However, this information has not been updated in the most recent report.

dd) Youth Writing the Future

This Ministry of Public Education programme provides scholarships to students from priority public higher education institutions. Targeted at students under the age of 29 from low-income families, it aims to help them stay in school and graduate. For 2024, this scholarship awards MXN\$

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(2023), available at: <<https://www.infobae.com/mexico/2023/09/05/amlo-afirma-que-presupuesto-del-2024-incluira-aumento-en-apoyos-del-bienestar-analiza-ampliar-beca-para-estudiantes/>> accessed 20.6.2024.

42 IMSS, 'Acuerdo acdo.as2.hct.270219/93.p.dir, DOF: 29/03/2019' (2019), available at: <[https://dof.gob.mx/nota\\_detalle.php?codigo=5555926&fecha=29/03/2019&print=true](https://dof.gob.mx/nota_detalle.php?codigo=5555926&fecha=29/03/2019&print=true)> accessed 20.6.2024.

43 STPS, 'Reglas de Operación del Programa Jóvenes Construyendo el Futuro' (2024), available at: <[https://www.gob.mx/cms/uploads/attachment/file/878411/Reglas\\_de\\_Operacion\\_del\\_Programa\\_Jovenes\\_Escribiendo\\_el\\_Futuro\\_para\\_el\\_ejercicio\\_fiscal\\_2024.pdf](https://www.gob.mx/cms/uploads/attachment/file/878411/Reglas_de_Operacion_del_Programa_Jovenes_Escribiendo_el_Futuro_para_el_ejercicio_fiscal_2024.pdf)> accessed 20.6.2024.

44 Gobierno de México, 'Programas para el Desarrollo' Jóvenes Construyendo el Futuro, (2023), available at: <<https://pub.bienestar.gob.mx/pub/programasIntegrales>> accessed 20.6.2024.

45 A.M. López Obrador, Cuarto informe de gobierno' (2022) available at: <<https://www.gob.mx/cuartoinforme>> accessed 20.6.2024.

2,800.00 per month (US\$ 165.31), payable for 10 months of the fiscal year, which means that students can receive up to 45 monthly payments throughout the duration of their university studies.<sup>46</sup> As of August 2023, a total of MXN\$ 403,145<sup>47</sup> have been granted.

#### ee) Well-Being Pension Programme for Older Adults

In 2020, the Mexican Constitution established a new non-contributory pension for older adults.<sup>48</sup> This pension is granted through the Well-Being Pension Programme for Older Adults intended for persons aged 68 (or aged 65 for indigenous peoples and Afro-Mexicans) and older of Mexican nationality and residing in Mexican territory.<sup>49</sup> This programme is aimed at guaranteeing the “well-being” of the recipients, whereby “well-being” is defined as having the minimum conditions for a dignified life.<sup>50</sup> In 2024, beneficiaries receive MXN\$ 3,000.00 (US\$ 177.11) per month, paid every two months.<sup>51</sup> This benefit is not means-tested, which implies that the contributory and non-contributory old-age pensions are cumulative: it can happen that former workers are entitled to the maximum amount for contributory pensions and still receive a non-contributory pension. In the event of the beneficiary’s death, a one-time payment of the same amount is made to the beneficiary’s caregiver.

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46 SEGOB, 'Acuerdo número 25/12/23, 'Reglas de Operación 2024' (2023), available at: <[https://dof.gob.mx/nota\\_detalle.php?codigo=5676229&fecha=30/12/2022#gsc.tab=2](https://dof.gob.mx/nota_detalle.php?codigo=5676229&fecha=30/12/2022#gsc.tab=2)> accessed 20.6.2024.

47 Gobierno de México, 'Programas para el Desarrollo' Jóvenes Escribiendo el Futuro, available at: <<https://pub.bienestar.gob.mx/pub/programasIntegrales>> accessed 20.6.2024.

48 CPEUM, Article 4.

49 ACUERDO por el que se emiten las Reglas de Operación del Programa Pensión para el Bienestar de las Personas Adultas Mayores, para el ejercicio fiscal 2024, DOF: 29/12/2023.

50 Ibid.

51 Secretaría del Bienestar, '2024 inicia con aumentos a Pensiones de Bienestar, anuncia Ariadna Montiel', (2024), available at: <<https://www.gob.mx/bienestar/prensa/2024-1-nicia-con-aumentos-a-pensiones-de-bienestar-anuncia-ariadna-montiel?idiom=es>> accessed 20.6.2024.

Up until August 2023, a total of 10,981,247<sup>52</sup> older adults have benefited from this programme, receiving a steady lifelong income every two months and with annual increments. This serves as an important supplement to a Mexican family's income since 14% of the total population is 60 years old or older,<sup>53</sup> and 31.1% of this sector live in poverty.<sup>54</sup>

#### ff) Pension Programme for the Well-Being of Persons with Permanent Disabilities

This social programme is aimed at contributing to the income of Mexican families caring for a child, youth, or adult with a permanent disability.<sup>55</sup> The programme is reserved for people of Mexican nationality and residing in Mexico. Beneficiaries, in order of prioritisation, are young people from zero to twenty-nine years of age; people from 30 to 65 years of age who live in indigenous or Afro-Mexican municipalities and localities or in municipalities or localities with a high or very high degree of marginalisation, and persons between 30 and 65 who reside in a state whose government has signed the Agreement for the Universalisation of the Pension for Persons with Permanent Disability.<sup>56</sup> It is not means-tested.

In the 2024 fiscal year, the programme provides MXN\$ 3,100.00 (US\$ 183.02) in financial support every two months. In the event of the beneficiary's death, the officially registered caregiver receives a one-time payment of MXN\$ 1,550.00 (US\$ 91.51) to help with funeral expenses. Additionally, the programme offers "well-being vouchers" for rehabilitation services in National Health System-accredited public or private healthcare centres. Each voucher corresponds to an individually tailored rehabilitation session

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52 Gobierno de México, 'Programas para el Desarrollo' Pensión para el Bienestar de las Personas Adultas Mayores' (2023), available at: <<https://pub.bienestar.gob.mx/pub/programasIntegrales>> accessed 20.6.2024.

53 INEGI, 'Estadísticas a propósito del día internacional de las personas adultas mayores' (2022), available at: <[https://www.inegi.org.mx/contenidos/saladeprensa/propósito/2022/EAP\\_ADULMAY2022.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/propósito/2022/EAP_ADULMAY2022.pdf)> accessed 20.6.2024.

54 CONEVAL, 'Medición de la pobreza' (2022), available at: <[https://www.coneval.org.mx/Medicion/MP/Paginas/AE\\_pobreza\\_2022.aspx](https://www.coneval.org.mx/Medicion/MP/Paginas/AE_pobreza_2022.aspx)> accessed 20.6.2024.

55 Cf. SEGOB, 'Acuerdo por el que se emiten las Reglas de Operación del Programa Pensión para el Bienestar de las Personas con Discapacidad Permanente, para el ejercicio fiscal 2024', (2024), available at: <[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5713347&fecha=29/12/2023#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5713347&fecha=29/12/2023#gsc.tab=0)> accessed 20.6.2024.

56 Ibid.

and can be redeemed for medical appointments, inclusive of educational therapy and rehabilitation for persons with disabilities up to 17 years of age.<sup>57</sup>

Since the launch of the programme in January 2019 to June 2023, assistance has been provided to 1,431,498 beneficiaries.<sup>58</sup> Between 2019 and 2024, the pension amount went from MXN\$ 1,275 (US\$ 75.27) to MXN\$ 1,550 (US\$ 91.51), an 21% increase.

#### gg) IMSS-BIENESTAR Programme

IMSS-BIENESTAR is a social welfare programme in Mexico that provides health services to those without social security. Created in 1973 with non-contributory benefits, it has evolved under different administrations, reforming and shaping federal, state and municipal guidelines. Formerly known as IMSS-COPLAMAR (1979), IMSS-Solidaridad (1989), IMSS-Oportunidades (2002), and IMSS-PROSPERA (2014), it acquired its current name in 2018. This programme adapts to political and social changes, while preserving its objective of improving access to health for those who lack social security in Mexico.

The April 2024 report stated that IMSS-BIENESTAR operates in 23 states with a network of 635 hospitals, 11,913 clinics and 131,000 workers attending to 53.2 million Mexicans, that is, 84.8% of those without social security,<sup>59</sup> with an operating budget of MXN\$ 128,623,931,279 (US\$ 7593943172.86) for this purpose.<sup>60</sup>

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57 Ibid.

58 A.M. López Obrador, 'Quinto informe de gobierno, Presidencia de la República' (2023) p. 216, available at: <<https://framework-gb.cdn.gob.mx/informe/760e7dab2836853c63805033e514668301fa9c47.pdf>> accessed 20.6.2024.

59 IMSS, 'IMSS-Bienestar opera en 23 entidades para atender a 53.2 millones de mexicanos que no tienen seguridad social' (2024), available at: <<https://www.imss.gob.mx/prensa/archivo/202404/170#:~:text=IMSS%2DBienestar%20es%20una%20instituci%C3%B3n,por%20ciento%20de%20quienes%20no>> accessed 20.6.2024.

60 Proyecto de presupuesto de egresos de la federación 2024 septiembre de 2023, available at: <[https://www.ppef.hacienda.gob.mx/work/models/7183r4rR/PPEF2024/oiquewbt4/docs/47/r47\\_ayo\\_afpefe.pdf](https://www.ppef.hacienda.gob.mx/work/models/7183r4rR/PPEF2024/oiquewbt4/docs/47/r47_ayo_afpefe.pdf)> accessed 20.6.2024.

### c) Tax Exemptions

It must be pointed out that there are very few tax exemptions for lower income taxpayers. To that effect, Article 151 of the Income Tax Law<sup>61</sup> establishes the items that can be deducted in annual tax returns, including medical and dental fees, education expenses, housing expenses, and pensions. The exemption is only available for persons who do not, during the calendar year, receive income in an amount equal to or greater than that resulting from calculating the general minimum wage of the taxpayer's geographical area. Thus, this benefit is targeted at taxpayers in the lowest income levels, and is considered to profit only individuals in a condition of poverty.

## III. Analysis

### 1. Enforceability and Accessibility of the Benefits

From the perspective of the enforceability of rights, it is hard to hold the state truly responsible for providing social benefits. Although the above-mentioned social protection programmes are based on the human rights enshrined in the Constitution, such as the right to education or to food, beneficiaries in practice do not have an accessible legal mechanism to enforce their rights in the event of non-compliance in granting cash transfers.

Admittedly, if an authority or public institution does anything that violates human rights, such as denying access to a social programme even if the person applying meets the legal requirements,<sup>62</sup> interested parties can file an *amparo* trial,<sup>63</sup> the constitutional legal remedy to safeguard rights by means of federal protection. Unfortunately, however, this remedy is

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61 SHCP, 'Decreto por el que se reforman, añaden y derogan diversas disposiciones de la Ley del Impuesto sobre la Renta, de la Ley del Impuesto al Valor Agregado, del Código Fiscal de la Federación y de la Ley Federal del Impuesto sobre Automóviles Nuevos' (2016), available at: <[https://www.diputados.gob.mx/LeyesBiblio/ref/lisr/LI\\_SR\\_ref02\\_30nov16.pdf](https://www.diputados.gob.mx/LeyesBiblio/ref/lisr/LI_SR_ref02_30nov16.pdf)> accessed 20.6.2024.

62 One example is the judgment under review 42/2022, by the Second Chamber of the SCJN regarding a human rights violation under the Pension Programme for the Well-Being of Persons with Permanent Disabilities, available at: <[https://www2.scjn.gob.mx/juridica/engroses/2/2022/2/2\\_292884\\_6001.docx](https://www2.scjn.gob.mx/juridica/engroses/2/2022/2/2_292884_6001.docx)> accessed 20.6.2024.

63 *Amparo* trial: Articles 103 and 107 of the Constitution define it as a procedural means in the Mexican legal system specifically used to protect the human rights established in the Constitution and in the international treaties to which Mexico is a party against

practically beyond the reach of the part of the population made vulnerable by poverty. Given the complexity of the procedure, it is indispensable to hire a lawyer specialised in the field, making a lawsuit unaffordable for people living in conditions of poverty, although free legal assistance can be obtained through national or state human rights commissions or legal clinics. Therefore, while an *amparo* is legally available to everyone, its scope and effectiveness may largely depend on having access to legal representation.

In addition to this, the rulings of the Supreme Court of Justice do not automatically apply to the entire population because the judicial system is based on the idea that judicial decisions should arise from specific cases and abide by the principle of appeal<sup>64</sup> and judicial independence.<sup>65</sup> While judgments can establish case-law currents<sup>66</sup> and inform future judicial decisions, their outreach depends on how lower courts interpret and apply them in similar cases.

Lastly, the number of requirements for each social programme beneficiary often imposes a considerable administrative burden on them, making it difficult to access benefits. For example, the programme for persons with permanent disabilities calls for a birth certificate, a valid identification card, the unique population registry code, proof of address, a completed registration form (downloaded from a website), and a disability verification form validated by a federal, state, or municipal health institution.

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any act of any national authority, when said authorities violate said fundamental rights and their guarantees. This resource is based on Article 103 of the Mexican Constitution and the corresponding regulatory law (Amparo Law, which regulates Articles 103 and 107 of the Political Constitution of the United Mexican States).

- 64 This means that people can go to court to challenge government decisions or actions that they believe violate their rights (Article 107 of the CPEUM, fraction I).
- 65 The Mexican judicial system is based on judicial independence and the principle of separation of powers. This means that courts, including the SCJN, make decisions based on the law and the Constitution, and do not have the authority to issue general resolutions (Article 107 of the CPEUM, fraction II).
- 66 Case law is made up of criteria arising from SCJN and Collegiate Court rulings (Article 215 of the Ley de Amparo) that courts can follow in similar cases. However, even in these cases, the rulings do not apply automatically to the entire population. The lower courts may choose whether or not to follow the case law established by the SCJN (Article 215 of the Ley de Amparo). The case law established by the Supreme Court of Justice of the Nation shall be binding for all judicial authorities of the Federation and the federal entities, with the exception of the Supreme Court itself (Article 217 of the Ley de Amparo).

## 2. Level of Protection

The cash transfers distributed by social programmes are complementary. There is no regulation establishing that each family should receive a minimum income to be able to live in dignity, based on the number of family members. In 2023, the federal budget explicitly stated that social programmes are exclusively targeted at those parts of the population living in conditions of poverty, vulnerability, old age, underdevelopment, and marginalisation. Thus, a link can clearly be established between the financial benefits given to the poor through social programmes and the specific precarious situations that the beneficiaries are facing. In fact, these programmes are not directly designed to lift people out of poverty, but rather aim to improve at least one aspect of their vulnerability (a social deprivation established by the CONEVAL), such as access to education, health care or subsistence.

Accordingly, the amounts of financial transfers of the social programmes discussed above (with the exception of the “Youth Building the Future” programme) are not directly related to the cost of the basic food basket or to the general minimum wage established for the country. Nor are there any legal provisions or a clear policy in place for progressive increments to the amount of the financial benefits, so they are increased every year at the discretion of the executive branch.

When comparing figures from recent years, it is evident that increases to financial support are effected arbitrarily. For instance, while, scholarships provided by the “Youth Building the Future” programme have increased each year, those of other programmes like the “Assistance Programme for the Well-Being of Children of Working Mothers” have not increased since 2019. Meanwhile, the “Young People Writing the Future” programme has only seen minor changes, as seen in the following table:

*Table 1: Monthly amount of cash transfers of social programmes aimed to reduce poverty in Mexico 2019-2024 (in MXN\$)*

Programme	2019	2020	2021	2022	2023	2024
Benito Juárez Scholarship Programme for Basic Education	NA	\$800.00	\$800.00	\$840.00	\$875.00	\$920.00
Assistance Programme for the Well-Being of Children of Working Mothers	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00	\$1,600.00
Youth Building the Future	\$3,600.00	\$3,748.00	\$3,748.00	\$5,258.13	\$6,310.00	\$7,572.00
Youth Writing the Future	NA	\$2,400.00	\$2,400.00	\$2,450.00	\$2,575.00	\$2,800.00
Well-Being Pension Programme for Older Adults	\$1,275.00	\$1,310.00	\$1,550.00	\$1,925.00	\$2,400.00	\$3,000.00
Pension Programme for the Well-Being of Persons with Permanent Disabilities	NA	\$1,310.00	\$1,350.00	\$1,400.00	\$1,475.00	\$1,550.00

Source: Based on the Rules of Operation of each social programme sorted by year.

The cash transfers provided for by the Well-Being Pension Programme for Older Adults have increased, but are still not enough to cover the basic food basket for a large family. This can lead to situations where elderly persons find themselves in extreme poverty even when they receive both pensions. Meanwhile, others can receive the maximum amount for contributory pensions (currently proportional to a payment of 25 minimum

daily wages for 30 days,<sup>67</sup> which amounts to a total of MXN\$ 186,697.50 [US\$ 11,022.60]) and still receive a non-contributory pension. On average, however, contributory and non-contributory pensions in tandem do ensure a minimum level of subsistence for older adults, at least by means of measurable income, since issues related to access to healthcare have yet to be resolved.

An attempt to restructure the contributory and non-contributory pension system has been made in the form of a series of reforms introduced by the outgoing president through executive orders (and not established through legislative reforms) with a sharp tinge of electioneering – which paid off in the recent presidential election.

The first reform, implemented in 2024, seeks to allow workers to retire with 100% of their pre-retirement wages, as long as it is equal to or less than the average national monthly wage – calculated by the IMSS – currently standing at MXN\$ 16,777 (US\$ 990.5).<sup>68</sup> The second one, created on 30 April (2024), established the Pension Fund for Well-Being entrusted with collecting, administrating and distributing the resources. This fund will be used to, first, finance the increase for future pensioners who find themselves in the above category of contributory pensions<sup>69</sup> and, second, contribute to the financing of non-contributory pensions. This fund will be made up of the seizures made by the Institute to Return to the People what was Stolen, resources from the liquidation process of the National Agricultural, Rural, Forestry and Fishing Development Financial Institution, and profits from state-owned entities like the Felipe Angeles International Airport (AIFA) and the Mayan Train. It also obliges *Afores* (Retirement Funds Administrators authorised to manage Mexican individual retirement accounts) to transfer the resources of workers over 70 years of age who have not requested their retirement, severance at advanced age, and housing subaccount balances to the Pension Fund for Well-Being. It is calculated that a total of MXN\$ 40 billion (US\$ 2,361,595.7) will be collected this

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<sup>67</sup> IMSS, 'H. Consejo Técnico del IMSS ratifica criterio de 25 salarios mínimos como límite para el pago de pensiones' (2020), available at: <<https://www.imss.gob.mx/prensa/archivo/202002/064>> accessed 20.6.2024.

<sup>68</sup> DOF, 'DECRETO del Fondo de Pensiones para el Bienestar' (2024), available at: <[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5725285&fecha=01/05/2024#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5725285&fecha=01/05/2024#gsc.tab=0)> accessed 20.6.2024.

<sup>69</sup> Ibid.

way.<sup>70</sup> This is a clear violation of workers' acquired rights since these are individual savings accounts. Although the Executive Order has already come into force, the controversy it triggered is still being discussed in bar associations, *amparo* proceedings are underway, and other legal measures are expected to be taken.

### 3. Group Vulnerability vs. Universalism

Government agencies provide financial assistance benefits as stipulated by the public policies laid down by the current government. For the current administration, poverty is the issue guiding public policies, as well as government programmes and benefits. However, as illustrated above, constitutional provisions only mandate the state's obligation to provide minimum income through financial support for persons belonging to a vulnerable group, as well as a minimum wage for workers. As a result, there is no universal system aimed at improving conditions for a life in dignity. Instead, there are individual systems such as targeted social insurance and assistance programmes that are not linked to each other, which makes it difficult to describe a specific legal construct as a system protecting people's right to a life in dignity.

Among the social programmes to alleviate poverty, two individual systems have a certain degree of universality: non-contributory pensions for older adults and financial support for persons with disabilities. These are based on the Constitution and they fulfil the state obligation explicitly included in Article 4 of the CPEUM in 2020. They are not means-tested and the related cash transfers are thus not conditioned to poverty. However, they still address recipients that belong to specific vulnerable groups: the original argument that led to the incorporation of this constitutional right took into account the high levels of marginalisation that both categories of beneficiaries face.

As for the other social programmes, access to them depends on whether the beneficiaries, families or individuals classified by age, such as children

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<sup>70</sup> DOF, 'DECRETO por el que se reforman, adicionan y derogan diversas disposiciones de la Ley del Seguro Social, etc.' (2024), available at: <[https://www.dof.gob.mx/nota\\_detalle.php?codigo=5725265&fecha=30/04/2024#gsc.tab=0](https://www.dof.gob.mx/nota_detalle.php?codigo=5725265&fecha=30/04/2024#gsc.tab=0)> accessed 20.6.2024.

or youth, meet the requirement of being within the marginalisation index established by the National Population Council (CONAPO).<sup>71</sup>

Except for the non-contributory and disability pension, it should be noted that in general, none of the social programmes impose a nationality requirement. However, they do require proof of current address without specifying a length of stay in the country, a birth certificate and the Unique Population Registry Code (CURP), which restricts access to foreigners in irregular migratory conditions.

#### 4. Outcomes: Measuring Poverty in Mexico

In Mexico, poverty is measured by the CONEVAL. Poverty is not seen as simply a lack of economic income, but as a multidimensional phenomenon which comprises aspects related to living conditions that threaten the dignity of people, limit their rights and freedoms, prevent the fulfilment of their basic needs and hamper their full social integration.<sup>72</sup> Hence, through the CONEVAL, the government identifies poverty based on the following measurable dimensions: educational lag, lack of access to health services, lack of access to social security, inadequate quality housing or space, unavailability of basic housing services and the lack of access to food.<sup>73</sup> The General Law for Social Development states that “poverty, in its broadest sense, is associated with living conditions that undermine people’s dignity, limit their fundamental rights and freedoms, prevent them from satisfying their basic needs and make it impossible for them to be fully integrated into society.”<sup>74</sup>

Unfortunately, upon analysing the data presented in Table 1 below, it is clear that the percentages of poverty, and thus the threat to a life in dignity for the Mexican population, remain high.

71 This index measures the deprivations a population experiences as a result of a lack of access to education, health, residence in inadequate housing and the lack of goods and services related to Information and Communication Technologies (ICT), essential for the development of their capabilities, CONAPO, ‘Índices de marginación 2020’ (n 35).

72 CONEVAL, ‘Medición de la pobreza. Anexo estadístico de la pobreza en México 2022’ (n 54).

73 Ibid., p. 4.

74 CONEVAL, ‘Anexo único de los “lineamientos y criterios generales para la definición, identificación y medición de la pobreza”’ (2018), available at: <<https://www.coneval.org.mx/Normateca/Documents/ANEXO-Lineamientos-DOF-2018.pdf>> accessed 20.6.2024.

*Table 2: Multidimensional poverty measurement in Mexico from 2018 to 2022*

<i>Poverty Indicator</i>	Percentage			People (in millions)		
	2018	2020	2022	2018	2020	2022
Population living in poverty	41.9	43.9	36.3	51.9	55.7	46.8
Population living in moderate poverty	34.9	35.4	29.3	43.2	44.9	37.7
Population living in extreme poverty	7.0	8.5	7.1	8.7	10.8	9.1
<i>Indicators of social deprivation</i>						
Educational lag	19.0	19.2	19.4	23.5	24.4	25.1
Lack of access to health services	16.2	28.2	39.1	20.1	35.7	50.4
Lack of access to social security	53.5	52.0	50.2	66.2	66.0	64.7
Lack of access to basic housing services	19.6	17.9	17.8	24.3	22.7	22.9
Lack of housing quality and space	11.0	9.3	9.1	13.6	11.8	11.7
Lack of access to nutritious and quality food	22.2	22.5	18.2	27.5	28.6	23.4

Based on CONEVAL Poverty Measurement Report 2022, statistical appendixes.<sup>75</sup>

People living in moderate poverty are those with one or two social deprivation indicators (e.g., education lag or a lack of access to health services, social security, basic housing services or nutritious and quality food) and who, moreover, do not have a minimum income to cover the basic food basket.<sup>76</sup> Meanwhile, extreme poverty refers to those with three or more social deprivations, and who, additionally, have insufficient income and resources to acquire the basic food basket.<sup>77</sup>

<sup>75</sup> Ibid.

<sup>76</sup> Since it is used as an indicator, the cost of the basic food basket is updated for both rural and urban areas every month. In May 2024, the basic food basket per person was said to cost MXN\$ 2,304.27 in urban settings while in a rural setting this figure went down to MXN\$ 1,767.03 per person. Cf. CONEVAL, 'Valor de la canasta alimentaria' (n 22).

<sup>77</sup> CONEVAL, 'Anexo único' (n 74), under this criterion – as reported by the CONEVAL – poverty in Mexico has gone down by 7.6% in just 2 years. However, it should be kept in mind that the period between 2020 to 2022 was affected by the COVID-19 pandemic and by the ensuing post-pandemic economic reactivation.

Analysing the data on the social deprivation parameters in the light of the provided minimum income schemes enables us to gauge how these programmes impact the vulnerability and the dignity of millions of Mexicans.

First of all, it should be noted that the educational gap does not necessarily indicate illiteracy but refers to the number of children and adolescents between the ages of 3 and 15 who are not enrolled in basic education institutions. In this sense, the percentage of Mexicans lacking basic academic education, far from dropping, has seen a 0.2% growth every two years, going from 19% in 2018 to 19.4% in 2022, despite the provision of Benito Juarez Scholarships for Basic Education.

The lack of access to health services reveals an interesting fact, especially considering that the social programmes aimed at granting access to health have been in place uninterruptedly for more than 45 years in Mexico, only changing names, but preserving the operational bases or extending their scope. Surprisingly, when the IMSS PROSPERA programme changed its name in 2018 to IMSS<sup>78</sup> BIENESTAR (to date), the number of people without access to basic health services increased by 150%, going from 20 million to 50 million people with this specific social deprivation.

Access to social security has improved with a 3.3% decrease in the number of people without coverage. This means that more workers have contributed for their old age through the Retirement Savings System and have an individual account at a Retirement Fund Administrator, thereby also obtaining medical services for themselves and their families through social insurance. However, this raises a contradiction in terms: an increase in the number of people with social security would imply a reduction in the figures for those lacking health services, but it has yet to be factored in that the Youth Building the Future social programme gives recipients access to social insurance for only one year without providing it for their families. So, although social insurance has increased, it has not been possible to narrow the gap in the area of health care.

Deprivations in housing quality and space, as well as in access to basic housing services, have decreased by almost 2% each, improving conditions like solid floors, slab roofs, and access to public services like water, sewage and electricity during the period of the last administration.

The indicator of deprivation due to lack of access to nutritious and quality food has gone down by 4%. This indicator is based on the Mexican

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<sup>78</sup> Acronym of the Mexican Social Security Institute [Instituto Mexicano del Seguro Social].

Food Security Scale, which assesses whether people have skipped a meal (breakfast, lunch or dinner), have gone a whole day without eating, have been hungry but did not eat, or have had to ration their food in the three months prior to the survey.

#### IV. Concluding Remarks

Constitutional provisions do not expressly provide for a minimum subsistence income for all Mexicans, but they do lay down specific social rights such as housing, food, employment, education, and access to healthcare for those within Mexican territory. The implementation of such rights, in line with international human rights instruments, help individuals lead a life in dignity.

Even though the CPEUM protects all persons within Mexican territory, some guarantees are targeted at people who are part of vulnerable groups only, such as the right to minimum income introduced in 2020. As a result, social programmes put in place by the executive branch are designed to address some of the specific vulnerabilities affecting the population, which may include age-related considerations, such as being part of the population group of older adults, youth, or children, as well as belonging to vulnerable social groups, such as young people who are not studying or are unemployed, indigenous communities, Afro-Mexicans, persons with disabilities, or those residing in geographic areas of extreme poverty. The poverty gap is thus addressed by means of a variety of social programmes that provide cash transfers that are supposed to contribute to leading a life in dignity. As observed in the analysis of social programmes, each particular benefit (scholarships, pensions, etc.) does alleviate a social deprivation of poverty, but when measured against the cost of the basic food basket, it does not guarantee a life in dignity for people living in poverty.

Moreover, there is no universal programme to ensure that people can lead a life in dignity. Generally speaking, each programme focuses on protecting vulnerable groups. However, often administrations have used social assistance as a political instrument to tout their activities, as well as an electoral quid pro quo. Therefore, the target population for such programmes is not always the poor. For example, the universalisation of certain social programmes such as the non-contributory pension for older adults marks a departure from the purpose of poverty alleviation, since anyone can receive these benefits without experiencing financial insecurity. Thus, persons with

disabilities and older adults receive cash transfers without having to belong to a community marginalised by poverty.

Despite the fact that various international instruments like the ICESCR and the Protocol of San Salvador stress the need to progressively guarantee social rights, we can see how the social programmes analysed herein that regularly confer financial benefits do indeed contribute to leading a life in dignity, but only provide relief while being delivered. Hence, they also lead to dependency and transgress their very nature by creating a form of clientelism. The minimum conditions for these programmes to exist (regulatory framework, financing, and implementation) need to be sustainable to avoid falling into assistentialism, a consideration that is not foreseen in most of the social programmes analysed here.

An important point to consider is the protection of subordinate employees, which is based on the emblematic Article 123 of the Mexican Constitution. While this article does not expressly discuss the protection of a minimum existence, it introduces two contributing figures: the minimum wage and the right to social security for workers and their families. The regulation of both is found in various secondary laws.

Lastly, it should be noted that the issue of a minimum income has been controversial, considering that its effective materialisation in the right to minimum conditions for life was only possible through a judicial interpretation of the law and the CPEUM. The right to minimum conditions of life, or the vital minimum, is only recognised in single rulings issued by the Supreme Court of Justice of the Nation (spanning the last decade) on the grounds of human dignity as a condition for people to fully enjoy their rights. These rulings draw attention to the fact that individuals need a minimum level of financial security and the ability to satisfy their basic needs.