

"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"



TERRUM.

2023: looking at Mexico through a
Camera-obscura.

By Miguel Ruelas.

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Close one eye and peek into our camera obscura...

TERRUM's customary December edition with a year-end-summary and analysis of the most relevant and impactful legal developments in Mexico is ready for your enjoyment. However, this time, close one eye as you read and peek into our camera obscura as images may be distorted and overall blurriness permeates this pinhole image.

In 2023 Mexico witnessed significant legal developments, reflecting its dynamic socio-economic and political landscape. This edition of Terrum will explore the most impactful of these developments, offering a summary of its analysis, and the blurry scenario that 2023 developments poses for Mexico in 2024.

Whilst impossible to summarize all legal developments, reforms and impacts, Mexico had an active 2023 legislative period with enabling and discussing multiple reforms and amendments. Some of the most important being:

- **Energy Sector Reform:** One of the most contentious legal changes was the energy sector reform, aimed at strengthening state control over the energy market. This move sparked debates about its impact on foreign investment and environmental sustainability.
- **Digital Rights and Data Protection:** New laws and amendments in the digital realm, focusing on data protection and cybersecurity, showcased Mexico's commitment to adapting to the digital age while ensuring citizens' rights.
- **Environmental Laws:** Strengthened environmental legislation reflected Mexico's efforts in addressing climate change and sustainable development.
- **Labor Law Reforms:** Changes in labor laws aimed at enhancing workers' rights, including gig economy workers, indicating a move towards more inclusive and fair labor practices.
- **Electoral Reforms:** a contentious battle between the current administration and the opposition. In these reforms, the current administration has re-drawn electoral maps, downsized the National Institute for Elections, and limit its economic and legal power.
- **Mining Law Reforms:** seeking to exacerbate government control over granted rights to third parties¹.
- **Transport and Infrastructure programs:** which have been directed by the sole command of the Executive power, with dubious legal processes for the bidding in, and construction of, the "megaprojects of this administration. Such that have slandered the Selva Maya with a train, and billions of dollars to halt mid-construction Mexico City's planned new airport, to simply build another. All of these which have raised substantial questions in the government's budgetary policy.

The above, might sound relatively powerful and even "positive progress", but remember, this is after all a camera obscura.

Energy Sector Reform

2023 saw a major overhaul in Mexico's energy sector. The government introduced reforms to reinforce state control over the energy market, particularly in electricity and oil. This move aimed to prioritize the state-owned Federal Electricity Commission (CFE) and Mexican Petroleum (Pemex) over private and foreign companies. Critics argued that these reforms could deter foreign investment and clash with Mexico's commitments under international trade agreements. Environmentalists also raised concerns about the potential neglect of renewable energy sources in favor of fossil fuels².

1.- <https://www.gob.mx/se/prensa/reforma-integral-a-la-actividad-minera?idiom=es>

2.- <https://elpais.com/mexico/2023-10-20/deuda-record-y-reduccion-de-impuestos-a-pemex-y-a-la-cfe-las-claves-de-la-ley-de-ingresos-avalada-por-los-diputados.html>

Digital Rights and Data Protection

Recognizing the importance of digital security in an increasingly connected world, Mexico enacted new laws and amendments focusing on data protection and cybersecurity. These laws aimed to protect personal data, ensure data privacy, and combat cybercrime, reflecting global concerns about digital rights and security. The legislation also addressed issues such as digital fraud, identity theft, and corporate responsibility in data handling.

Environmental Legislation

Environmental concerns led to the strengthening of laws related to climate change and sustainability. These laws aimed to address pollution, promote renewable energy, and ensure sustainable development practices. The legislation was seen as a step forward in Mexico's commitment to the Paris Agreement and its responsibility as a global environmental steward³.

Labor Law Reforms

Labor law reforms in 2023 were geared towards improving workers' rights, including those in the gig economy. These reforms aimed to enhance job security, ensure fair wages, and promote safe working conditions. The changes were particularly significant for gig economy workers, who had previously faced precarious working conditions without adequate legal protections⁴.

Judicial and electoral Reform

In 2023, the Mexican government proposed a comprehensive judicial reform, aiming to enhance the efficiency, transparency, and independence of the judiciary. This reform was seen as a crucial step in combating corruption, a longstanding issue in Mexico's legal system. The proposed changes included modifications to the appointment process of judges and magistrates to reduce political influence, the implementation of new technologies for case management to increase efficiency, and measures to strengthen the fight against corruption within the judiciary itself. These reforms were aimed at restoring public trust in the judicial system and aligning Mexico with international standards of judicial independence and fairness.

1. Electoral Reform: Following the failure of "Plan A," which aimed to amend the Mexican constitution, Mexico's president enacted "Plan B" on February 22, 2023. This reform significantly impacts the country's electoral system, particularly the National Electoral Institute (INE). It reduces the INE's capacity to organize elections and count votes by dismissing over 80% of its civil servants and eliminating crucial offices overseeing elections. This move has raised concerns about the independence and effectiveness of INE, potentially threatening the legitimacy of future elections, including the 2024 Presidential election. Over 143 lawsuits challenging the reform have been filed, with INE itself filing a notable lawsuit challenging the constitutionality of the legislation⁵.

President Andrés Manuel López Obrador's administration has been criticized for undermining judicial independence. Efforts include attempts to alter the composition of the Supreme Court and proposing constitutional reforms that would weaken judicial independence. There has also been a proposed reduction in the federal judiciary's 2024 budget by about 30%, which further raises concerns about the independence and functioning of the judiciary.

Government Overspending and Financial Strain

2023 also brought into sharp focus the issue of government overspending in Mexico, leading to concerns about financial sustainability. This overspending was attributed to various factors, including ambitious infrastructure projects, social welfare programs, and the energy sector reform.

3.- <https://www.gob.mx/semarnat/prensa/reformas-a-leyes-acotaran-impactos-ambientales-de-la-mineria-semarnat?idiom=es>

4.- <https://reformalaboral.stps.gob.mx/>

5.- <https://www.jornada.com.mx/notas/2023/03/07/politica/buscan-147-empleados-del-ine-amparo-contra-el-plan-b-electoral/>

While the spending in infrastructure, energy sector reform, and social welfare were important for the nation's development and social equity, they have led to financial strains. Addressing these challenges requires careful fiscal management and strategic planning to ensure that Mexico's progress in various sectors does not come at the cost of its financial health⁶.

The causes of overspending are clear:

- **Infrastructure Projects:** Large-scale investments in infrastructure, such as the expansion of train networks and airport modernization, while crucial for long-term economic growth, placed a significant strain on the national budget.
- **Energy Sector Reform:** The shift towards strengthening state-owned entities in the energy sector required substantial public investment, raising concerns about the financial viability of these reforms in the face of fluctuating global oil prices and the increasing global shift towards renewable energy sources.
- **Social Welfare Programs:** The government's commitment to extensive social welfare programs, although pivotal for improving social equity, added to the financial burden, especially in a context where economic growth was not keeping pace with expenditure.

The consequences of the above are even worst, with:

- **Risk of Overspending:** The cumulative effect of these expenditures raised alarms and was exacerbated by warnings from credit rating agencies about the possible downgrading of Mexico's credit rating, which would increase borrowing costs and further strain the national budget⁷.

Risks of Government Overspending and Elimination of State Trusts

Alarms are now on, as money is not endless, and the safety monetary mechanisms that safe-guarded Mexican sovereign savings have now been reversed, eliminating sovereign trusts that hold money for special purposes, and liberating them for budgetary free planning by the Executive and Legislative power⁸.

In October 2023, the Mexican Congress approved a significant modification to Article 224 of the Organic Law of the Federal Judicial Power (PJF) regarding trust funds. This reform, enacted by President López Obrador, substantially reduces the budget available to the PJF by eliminating 13 of 14 trust funds and prohibiting the creation of new ones. This change is part of the President's broader campaign against corruption and government overspending. The resources from the dissolved trust funds are expected to be reallocated to the Federal Treasury to support social programs under the National Development Plan. However, these budget cuts have sparked debate and protests over concerns that they might compromise the independence of the judiciary and impact the rights of judicial employees. Critics argue that the reform could disrupt the balance of power and undermine the judiciary's role as a check on executive power⁹.

An overspent country faces a 2024 with bills already collecting from the multiple programs and reforms. This camera obscura might still not reveal the true image that is to come in 2024.

6.- <https://www.reuters.com/world/americas/mexicos-election-year-deficit-plan-fuels-fear-over-finances-2023-09-11/>

7.- <https://www.imf.org/en/News/Articles/2023/10/03/mexico-staff-concluding-statement-of-the-2023-article-iv-mission>

8.- <https://internationalbudget.org/publications/examining-budget-credibility-in-mexicos-environmental-protection-sector/>

9.- <https://elpais.com/mexico/2023-10-18/el-congreso-aprueba-un-recorte-millonario-a-los-fideicomisos-del-poder-judicial.html>

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