



# Political **Constitution** of **Mexico City**

Background and fundamental advances

Upon emergence of the independent Mexico in 1824, the decision was made to create a federal District as the capital city of the country which had been subject to national powers that settled down in it. This situation prevailed in different legal forms until the last third of the 20th century.

At different times of the Mexican constitutional history, the country's capital city underwent several changes in its legal framework. It was not possible to have an adequate co-existence of federal and local branches to hinder improper interferences in the capital's autonomy; it was not possible either to fully recognize political rights of its inhabitants.

In the 20th Century, diverse events defined the legal situation of the capital city of the Mexican Republic. During the first third, reforms that suppressed municipalities were made; this implied a regression of the city's political decentralization. Afterwards, reforms were made to turn the capital city into an administrative department.

Meanwhile political events such as the students protest in 1968, the social organization after the 1985 earthquake and the 1988 elections when the left opposition succeeded, all triggered the democratic transformation of the city and the country. It was the beginning of a process of ownership by the inhabitants over the decisions relative to public life and the political fate of the capital.

During the last two decades, the institutional change allowed the city to have its own government statute and the citizens started to elect their authorities since 1997, narrowly though.

The democratization process of Mexico City brought new efforts and players. Thus, between the years 2000 and 2010, several legislative proposals were submitted to strive for the recognition of the city's autonomy to and give it its own Constitution. Some of these proposals did not attain

## Initiative of Mexico's City Chief of Government

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In his electoral campaign, the candidate for Chief of Government, Dr. Miguel Ángel Mancera included the political reform of Mexico City in his agenda. He offered to foster the work for the capital city to have a Constitution. When his administration started, one of his first actions was to create a specialized organ in charge of this function.

Since the beginning, this aspiration from the society and embraced by government, was fostered by personalities and academic experts, the civil society and people's movements that had had an important influence in the transformation of the city.

In 2013, the Chief of Government submitted a bill that reflected the efforts and proposals of the local and national political forces to the

Congress. This document was the starting point for the discussion and generation of agreements that would make the political reform of Mexico City possible.

The parliamentarian group of the Democratic Revolution Party (PRD) submitted this bill to the Senate of Mexico. After an intense debate in different legislative periods, it was on December 15, 2015 when the reform was passed and then published in January 29, 2016.

This constitutional progress gave place to a new scenario of activities targeted to issue the Political Constitution of Mexico City.

## Mexico City's Political Constitution Draft

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On February 5th, 2016 the Chief of Government formed a Drafting Group assisted by a Group of External Advisors to contribute to the creation of the Political Constitution Draft for Mexico City. Both groups were plural with outstanding personalities of different social leadership, specializations and disciplines. Prestigious civil players in the fields of human rights, urbanism and environment as well as representatives from universities, culture, legal science and politics.

For more than three years, a wide consultation process was started on the political reform and the content the local Constitution should have as well as several for a. more than 500 meetings with society organization were held, organizations such as: people movements, unions, entrepreneurs, indigenous people and communities, original neighborhoods, non-salary worker associations, advocates of human rights and priority care groups. The contribution from city's public agencies and organizations was requested. They in turn organize meetings with experts of their areas of competence. Dialogues with representatives of international organizations were held and with foreign professionals from different fields.

This project took an overall vision based on the right to the city and on the world and local applicable charts considering the global validity of the concept and the long term approach in the city planning processes. It is immersed in the Latin-American social constitutionalism context and it constitutes a summary of aspirations and demands expressed along the years as well as the progress attained in the city since it started the election of governing authorities in 1997. The reform of human rights of 2011 in the Carta Magna recognized the constitutional hierarchy of international treaties for the protection of people. The Constitution Project included the prerogatives contained in the international instruments and proposed a big catalogue of rights and guarantees for inhabitants of the city.

It was based on a cross vision from the human right, gender, interculturality, intergenerationality universal design, right to the city, citizen participation and right to good management views. It was built on fundamental political decisions such as people's sovereignty, the representative government, open and participative, separation of powers, accountability, and independence of male and

female judges, the Constitution as supreme law and the power of people to amend it.

It recognized and incorporated historical demands of diverse sectors that make up the capital city society. It represented a position consistent with the most advanced ideas and the conquests achieved in the city and internationally as well as the obligations and commitments made by the Mexican state.

It took into consideration the rights of groups with specific needs as established in the United Nations Organizations which has determined that these rights are perfectly compatible with the principle of universality as long as they are reasonably and objectively based.

It assumed the co-responsibility of citizens in compliance with the commitments made; it is imminently guarantee-based: all rights incorporated are enforceable and justiciable. The proposed model relies on a redistributive economy and on a new city's fiscal pact and one of this with the federation. Meeting wellbeing indices and the infrastructure needs will be greatly dependent on the goodwill of the city and on the success of a redistributive development policy.

An institutional renovation that will not imply excessive costs for the City was established. Most of the organizations considered already exist but their names, nature and powers change and; in many cases, positions are honorary. The principles stated would imply a deep administrative and judicial redesign to eliminate the expenditure and establish rationality standards in the exercise of power. The document was drafted according to a new constitutional system that favors an adequate legal interpretation and an easy understanding of the standards by the society. Each item has a name that describes its content so that all people know what the Constitution is all about. Its reading should not be reserved to the minority and it should become a tool for the individual and collective realization of the City's population.

The project has eight titles: constitutional principles, chart of rights, sustainable development of the city, citizenship and democratic exercise, power distribution, good management, relationship with the federal government and reformability, progressivity and constitution non-infringeability.

## The constituent process

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The Constituent Assembly of Mexico City was installed on September 15, 2016, day when the Chief of Government of the City gave the Constitution Draft used as base for the work. It was made up by one hundred congress women and men constituents grouped in ten parliamentary groups, this arrangement was a reflection of the current political plurality of the country and of the city. It was the first Congress in the national history that achieved gender parity and the most advanced guidelines on open parliament.

The work of this Assembly was carried out by eight committees which objective was to produce an expert opinion for each title of the Project. 21 plenary sessions were held. 544 bill by constituent congress women and man were submitted and 978 proposals by citizens as well as diverse mechanisms that allowed a significant number of public hearings, attendance of more than ten thousand people and one consultation with indigenous peoples as required by the most stringent international parameters.

During the development of its work, the Assembly privileged freedom of speech and the parliamentary debate. It was characterized by the firmness and eloquence in the defense of the ideology of the parties and the own convictions of the female and male constituents, many of whom showed mistrust and suspicion towards the project they received and finally embraced by enriching and approving it by more than two thirds. The intense debate also represented a constitutional and conceptual update of the country's political class.

The work of this assembly finished on January 31st, 2017. The countless achievements would impact the legal order in every entity and the domestic scenario; what was not passed is now having an expansive effect such as the basic rent, the right to vote at 16 years of age or the universal citizenship concept.

## Summary of content of the Political Constitution of Mexico City

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Among other achievements, we can mention:

### PRINCIPIES

1. Vindicates the autonomy of the City and the people sovereignty relative to the government regime and its fundamental decisions.
2. It recognizes the intercultural nature of Mexico City with plural language and ethnic plural composition.
3. Vindicates the national and international migration richness and it assumes itself as a sheltering city.
4. Human rights emerge as foundation of the Constitution.
5. It includes the right to good management and direct, representative and participative democracy mechanisms.

### CHART OF RIGHTS

6. It sets-forth an indicator system linked to the budget towards progressive enforcement of rights.
7. It provides people with simple and accessible mechanisms to demand enforcement of their rights before/to judges.
8. It recognizes the individual and collective right to memory, to the truth and justice for past facts.
9. It recognizes the right to personal self-determination and death with dignity.
10. It recognizes full rights of families in every form and structure.
11. It recognizes sexual rights of people and ensures access to comprehensive education and health services in this area.

12. It recognizes and protects reproductive rights of people.
13. It recognizes the right to defend human rights and ensures protection of advocates.
14. It recognizes the right to good public administration and foresees a utility quality index system.
15. Ensures protection and security for free journalism practice, dissent and critical thinking.
16. It establishes the right to social protest; it bans its criminalization and ensures respect of rights of those who exercise this right.
17. It ensures the right to access information as well as to produce, search, receive and communicate this information by any means. It also protects personal data.
18. It recognizes the right to vote and the right to be voted of people original from the city who live abroad.
19. It recognizes the right to education at every level, from initial education, to reading and writing, to sports and to infrastructure that allows for the exercise of this right.
20. It implements a local education system guided by a plan that ensures universality per values and principles of the Constitution of the City.
21. It recognizes the right to access to science, technology and innovation and to enjoy the resulting benefits.
22. It recognizes the cultural rights of every person, group or community and obliges authorities to promote and respect them.
23. It ensures the right to a vital minimum that allows people to live in material conditions of dignity.
24. It recognizes the right to care, food, health and housing.
25. It allows medical and therapeutic use of marihuana.
26. It recognizes right to water, its treatment, and its social management and prohibits privatization of water service.
27. It protects the human right to work and sets-forth a catalogue of prerogatives for salary-based workers and non-salary workers. It prohibits child labor, slavery and forced labor.
28. It promotes the on-going improvement of working conditions and salary.

- 29. It protects union freedom and democracy and ensures unemployment insurance.
- 30. It recognizes specific rights to the following priority care groups:

<ul style="list-style-type: none"> <li>• Women,</li> <li>• Children and teenagers,</li> <li>• Disabled people,</li> <li>• Lesbians, gays, bisexuals, transgenders, trasvesti, transsexuals and intersexuals,</li> <li>• Migrants and people subject to international protection,</li> <li>• Victims,</li> <li>• Homeless people,</li> </ul>	<ul style="list-style-type: none"> <li>• Confined people,</li> <li>• People living in social welfare institutions,</li> <li>• Afrodescendants,</li> <li>• Indigenous identity people and religious minorities</li> </ul>
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- 31. It ratifies the right to a healthy environment for present and future generations and recognizes nature as a collective entity with rights.
- 32. It includes protection of animals and sanctions mistreatment of animals.
- 33. it recognizes the right to use and enjoy public spaces, free time and social living together in safe citizen conditions.

**SUSTAINABLE DEVELOPMENT OF THE CITY**

- 34. It establishes a twenty-year planning system for the territorial development regulations through a specialized institute with social participation.
- 35. Organizes the planning system with an environmental protection approach that respects biodiversity and genetic heritage.
- 36. It recognizes the social role of the land and of ownership and makes real property development co-responsible for the compensation and mitigation of urban and environmental impacts.
- 37. It establishes measures against activities that damage ecosystems and health.
- 38. Includes limits for construction and urban development and protects ecological, rural and community areas.

- 39. it promotes social and private production of adequate housing for people.
- 40. It orders public service rendering addressing gender perspectives, intergenerationality, accessibility and universal design.
- 41. It ensures right to access to digital technologies in a progressive manner for the whole society.
- 42. It ensures right to access internet in the public space.
- 43. It establishes rules for a comprehensive mobility system that privileges people.
- 44. It allows for the establishment of a polycentric city through diverse development poles.
- 45. It reinforces the objectives of Metropolitan and Regional Coordination to improve housing, mobility, sustainability and life quality conditions for its inhabitants.
- 46. It establishes a coordination system with neighboring states and municipalities with ample citizens' participation.
- 47. It foresees resilience standards and effective measures against global warming.
- 48. it defines principles applicable to the development, social wellbeing and distributive economy.
- 49. It establishes an Economic, Social and Environmental Board linked to the planning system.
- 50. It establishes a legal framework of sites declared mankind heritage in the city.
- 51. It foresees citizen consultations which results will be mandatory for the authority relative to public works that impact the city environment.
- 52. It forces to target investment and public expenditure towards increasing infrastructure and improving service rendering.
- 53. It establishes a budgetary system based on results and indicators of enforcement of rights as established in the Constitution.
- 54. It strengthens resource allocation for municipalities in order to consolidate proximity governments.

## CITIZENSHIP AND DEMOCRATIC EXERCISE

55. It establishes civilian rights and duties of all ages in order to consolidate a democratic culture.
56. It conceives citizenship as the link among people and the community people belong to.
57. It foresees mechanisms that ensure compliance of electoral platforms of winning candidates.
58. It grants to citizens the right to start laws, revoke mandate of authorities, and participate in referendum and plebiscite, and make participative budgets as well as to register as candidates for public positions without a political party.
59. It incorporates citizens in the creation, execution and evaluation of public policies.
60. It promotes democratization of political parties and demands transparency.

## LEGISLATIVE, EXECUTIVE, JUDICIAL FUNCTION AND AUTONOMOUS ORGANIZATIONS

61. It fosters the representation of parliamentary minorities in the City Congress.
62. It foresees that the Congress of Mexico City is ruled by the principles of an open parliament.
63. It empowers the Congress of the City to participate in the reforms of the Political Constitution of the United Mexican States.
64. It establishes limits to assign the annual budget of the local Congress.
65. Defines as constitutional laws those established for the functioning of the local branches, of municipalities and the ones relative to human rights.
66. It empowers citizens and the head of the executive branch to present bills for preferential procedure s.
67. It foresees the functioning of local public administration as an open government system.
68. It favors balance between legislative and executive branches through parliamentary mechanisms.
69. It establishes the fundamentals for the creation of coalition governments.

70. It fosters plurality in Congress through the declaration of parliamentary opposition.
71. It privileges alternate means for controversy resolution within the justice comprehensive system.
72. It makes the Judiciary Board of the Superior Justice Court, independent.
73. It ensures autonomy and impartiality of judges and creates a Citizen Judicial Board.
74. It creates the Institute for Expert Services and Forensic Science to work with the judicial function.
75. It implements a Constitutional Room to settle down controversies between branches and safeguard human rights.
76. It introduces the legislative omission action and compliance actions.
77. It establishes human right safeguarding judges for each municipality.
78. It modifies the public security concept to citizen security and establishes a new model of proximity policing.
79. It limits preventive detention and establishes alternate penalties.
80. It foresees the establishment of citizen boards to appoint diverse officials.
81. It empowers the public entity assigned to protect human rights to accompanying victims before court.
82. It creates a public defense to have professional assistance of female and male public attorneys to render services for free.
83. Municipalities
84. It considers municipalities as the level of government closest to the people.
85. It establishes collegiated and plural government organizations for municipalities.
86. it decentralizes diverse powers that In the past corresponded to the government of the City so that the higher authorities do not intervene in matters to be resolved by the authorities closer to the citizens, in solidarity rather.
87. It foresees mechanisms for the association of diverse municipalities.
88. It creates the City Council of Mexico City made up by the Government of Mexico City and the municipalities.
89. It ensures direct participation of neighbors in the decisions by the municipalities.

## **ORIGINAL PEOPLES AND BOROUGHS AND INDIGENOUS COMMUNITIES**

- 90. It recognizes indigenous peoples as ones subject to public law and guarantees their collective rights.
- 91. It recognizes mandatory compliance of the Declaration of the United Nations applicable to Rights of Indigenous Peoples.
- 92. It recognizes autonomy for the government of indigenous peoples and the consultation right relative to their lands, territories and resources.
- 93. It establishes the consultation right of indigenous peoples relative to any administrative or legislative act that affects them.

## **GOOD GOVERNMENT AND ADMINISTRATION**

- 94. It establishes a local anti-corruption system lead by a citizen board.
- 95. It creates a career civil service system for the government agencies, autonomous organizations and municipalities.
- 96. It establishes its own legal regimen to limit responsibilities of public servants.
- 97. It eliminates Fuero and privileges of public servants.

## **CAPITAL CAPACITY**

- 98. It establishes a regime of relationship among federal and local branches for good functioning of both.
- 99. It ensures caring for diplomatic representations as caring for real property and heritage of the Federation located in the City's territory.
- 100. It constitutionalizes the capital capacity funding to be received from the Federation as being the seat for the Union Branches. Constitutional stability
- 101. It foresees referendum to pass constitutional reforms.
- 102. It sets-forth the progressivity principle for the constitutional reform.

*Document produced by the Unit for Political Reform of Mexico City for informative purpose.*



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