

# JUSTICE IN MEXICO

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## News Report October 2008

*Mexico is on track for an unprecedented 4,000 drug-related killings by year's end. As cartels vied for control over key trafficking routes, the last month brought continued narco-violence in northern border states Chihuahua and Baja California. In October, cartels continued to engage in high-profile attacks not solely focused on rival organizations or Mexican law enforcement, including an attack on the U.S. consulate in Monterrey that prompted a new travel warning from U.S. Ambassador Tony Garza. Amidst this elevated drug violence, President Felipe Calderón sent a proposal to decriminalize drug trafficking in Mexico by eliminating prison sentences for minor drug possession charges, and the Sinaloa Cartel suffered a major blow with the arrest of Jesús Zambada. Also, this month the PRD raised concerns about the merger of the Federal Investigative Agency (AFI) and Federal Preventive Police (PFP) under the Ministry of Public Security (SSP), arguing that this move violates administrative laws and may harbor a potentially compromising concentration of power under SSP. Meanwhile, the latest annual assessment suggests that public perceptions of corruption in Mexico have neither improved nor worsened considerably this year, while this month also brought new efforts to root out nepotism, identify bureaucratic processes that contribute to corruption, promote more protections for journalists, and protect electoral transparency in the 2009 midterm elections. Also, Mexico's National Human Rights Commission drew attention to kidnappings of Central American migrants, and other advocate groups sought to address the sexual exploitation and trafficking of minors. Around the states, Chihuahua's legislature considered new state-level justice reforms to allow warrantless home searches, increase municipal police investigative capacity, strengthen innocence presumptions, and bolster criminal legal defenses; the Mexico City government inaugurated its new juvenile justice system; Nuevo León authorities indicated that oral trials will be implemented at the state level by 2010; and Baja California attorneys expressed concerns about pending judicial reforms in that state.*

### DRUG TRAFFICKING

#### **National *ejecuciones* on track to top 4000 for 2008**

According to the Mexico City newspaper *Reforma's* running tally of cartel-related slayings, or *ejecuciones*, the nationwide total had reached 3,595 as of Oct. 10, already surpassing the 2007 total by more than 1,000, and on track to easily top 4,000 by the end of the year. The six Mexican border states account for 1,742 killings thus far in 2008, while there were 1469 drug-related killings in the other 26 Mexican states not directly adjacent to the border. With over 1,150 killings, Chihuahua alone accounts for nearly a third of all killings, including more than 100 that occurred in the last month. Baja California just under 100 *ejecuciones*, bringing its total reported by *Reforma* to 306 killings. Baja California is Mexico's third ranked state in drug killings so far in 2008, significantly trailing Sinaloa's 459 *ejecuciones*.

Baja California Gov. José Guadalupe Osuna Millán expressed concern back in August about a renewed surge of cartel-related violence in Tijuana after weeks of relative quiet. The border city made national and international press, though, on Sep. 30 after twenty bodies were found over a 24-hour period. Seven of the bodies had the tongues removed, and two were found stuffed into barrels of acid. Attorney General Rommel Moreno Manjarrez said that the cases were under investigation by the federal Attorney General's Office (PGR), given clear evidence of organized crime involvement. Bodies in 47 drug-related killings were identified during the period of Sep. 25 and Oct. 2 alone, including three municipal police officers. The same period also gave way to at least two kidnappings of civilians. At least two "narco-messages" were found on bodies warning of the consequences of associating with "El Ingeniero," identified as Eduardo Sánchez Arellano, son of Alicia Arellano Félix, reportedly the current head of the Tijuana cartel. On Oct. 17, 150 special federal units arrived in Tijuana to help patrol the city's troubled neighborhoods.

The state of Chihuahua, still with nearly a third of the national cartel killings, has seen little change in the rate of *ejecuciones* since the last reporting period. Chihuahua averaged just over 35 such killings a week between Sep. 20 and Oct. 10, and suffered another gangland-style attack, when 11 were killed, apparently at random, in a bar in Chihuahua City. The violence has created rifts between levels of government, with local authorities complaining that their resources are strapped, and accusing the federal government of ignoring the situation. Chihuahua Gov. José Baeza Terrazas complained that the PGR has not investigated a single killing in the state so far this year. Baeza said on Oct. 11 that the state will refrain from investigating any more cases of crimes committed by drug traffickers, and it will send to the PGR all of the over 1000 case files involving *ejecuciones* that have accumulated in 2008.

In October, the mayor of Ixtapan de la Sal, a small resort town in the state of Mexico was killed. Mayor Salvador Vergara Cruz was shot by individuals believed to be members of La Familia, an organization that made headlines in September for its alleged involvement in the Independence Day grenade attacks that took place in Morelia, Michoacán. If La Familia was involved in the killing, this could signal the organization's efforts to make inroads into the State of Mexico.

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"150 marinos llegan a Tijuana para reforzar seguridad." *El Financiero* 17 Oct. 2008.

#### **Mass killing in a Chihuahua bar and an attack on U.S. embassy in Nuevo León suggest a continued turn in cartel tactics**

High-profile gangland-style killings in Chihuahua and an Independence Day grenade attack in Michoacán have made headlines in recent months, followed this past month by another such killing in a Chihuahua City bar and an attack on the U.S. embassy in Nuevo León. These events mark a turn in cartel tactics, which have until recently focused on targeted killings of rival gang members and law enforcement

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officials. The recent targeting of civilians and symbols of state power suggest a possible tactical shift by the cartels toward methods more closely resembling domestic terrorism.

Agents of the federal Attorney General's Office (PGR) are investigating the Oct. 10 attack on the U.S. embassy in Monterrey, Nuevo León in which shots were fired and a grenade thrown, which did not explode. Nobody was injured in the attack. The U.S. ambassador to Mexico Tony Garza attributed the attack to drug trafficking organizations, and in response assured the Mexican people that the U.S. government stands by its Mexican counterpart in combating the immense shared problem of drug violence.

Garza also made reference to the Sep. 15 grenade attacks in Morelia, Michoacán, which killed at least eight people and injured scores more. Three presumed members of the Zetas have been arrested for the attacks, and are being held by the PGR for 40 days pending criminal proceedings on charges of terrorism and possession of weapons for exclusive use by the military. The three have reportedly confessed to the crimes as well as to being members of the Zetas, a group of assassins largely comprising ex-police and military personnel and affiliated with the Gulf Cartel.

Mexico in its struggle against drug trafficking organizations is often compared to Colombia, which saw heightened violence and a breakdown in state structures during the late 1980s and early 1990s and whose anti-narcotics efforts remain intimately tied to the funding and political will of the United States. Nonetheless, murder rates in Mexico have not approached those of Colombia during that time, and many of the sovereignty concerns that arose with the announcement of and speculation over the Merida Initiative have been alleviated. Likewise, as Carlos Marín points out writing for *Milenio*, the tactics resembling domestic terrorism witnessed during recent weeks do not nearly match in scope or sophistication the airplane and bus bombings perpetrated by Pablo Escobar in Colombia. Moreover, the immediate singling out of the Zetas by members of rival gang La Familia as those responsible for the Morelia attack highlighted the fact that the warring cartels are each other's most significant obstacle.

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**Anti-organized crime unit arrests brother of Sinaloa cartel leader**

On Monday, October 20, authorities confirmed the arrest of Jesús Reynaldo "El Rey" Zambada García, brother of Sinaloa cartel leader Ismael Zambada, also known as "El Mayo." Ismael Zambada heads the Sinaloa cartel along with Joaquin "El Chapo" Guzman, and this arrest represented the most significant blow against their organization thus far by the Mexican government. Jesús was considered one of the top lieutenants of the organization, and reportedly controlled the cartel's cocaine and methamphetamine (pseudoephedrine) operations in the Mexico City airport. According to *Reforma*, Jesús Zambada had wrested control over the airport operations from the Beltrán Leyva organization, a rival cartel that had earlier splintered away from the Sinaloa cartel triggering intensely violent conflict between the two organizations. Despite his important role in the Sinaloa cartel, Jesús Zambada reportedly maintained a very low profile within the organization and did not previously feature prominently in the media or federal investigative reports. His arrest occurred in Mexico City's Colonia Lindavista after a high-speed chase and shoot out that ended with the capture of 16 presumed members of the Sinaloa cartel by units of the Deputy Attorney General for Special Investigation of Organized Crime (SIEDO).

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## ECONOMY AND PUBLIC SECURITY

### Fallout in Mexico from U.S. financial crisis raises public security concerns

Ripples felt in Mexico from the U.S. economic crisis in the way of dwindling remittances and Mexican nationals returning for lack of jobs in the United States are raising public security concerns among community leaders.

Remittances sent home by Mexicans living in the United States have seen their sharpest decline on record, according to the Bank of Mexico, which has been keeping track of remittances since 1996. The bank reports that remittances fell to US\$1.9 billion for the month of August, a 12.2 percent drop from the same period last year. It predicts that the coming months will see a continued downward trend. Remittances are the second-largest source of foreign income behind oil exports, and have provided needed infrastructure and basic services to countless Mexican communities. The bank also reported that unemployment rates among Mexicans living in the United States is up substantially to 7.5 percent, up from 4.5 percent in March of last year; and is running substantially higher than the general population, with an unemployment rate of 6.1 percent.

The Calderón administration has been widely criticized for downplaying a potential (and by many estimations likely) Mexican economic crisis as recently as last month, when he declared that Mexico's economy is independent enough from that of the United States (presumably due to its exportation of petroleum, now sharply down in price from even a month ago) to avoid a direct impact. Mexico's projected economic growth for 2008 now sits at 2.5 percent, the lowest in Latin America. Production in Mexico's manufacturing sector fell 3.8 percent in August from a year before, with the automobile industry falling 16.4 percent. Meanwhile, unemployment in Mexico is at 4.25 percent, the highest level in four years.

While the ultimate societal impacts of the impending economic woes are still largely subject to speculation, many fear that with reduced cash flow from relatives in the United States and fewer legitimate employment opportunities at home Mexico's youth will be more vulnerable to recruitment by criminal organizations. Arturo Sánchez Ruiz, president of the National Peasant Confederation (CNC) warned that the coming wave of "paisanos" returning from the United States will have a direct impact on insecurity in the cities as well as the countryside.

Michoacán, a state that disproportionately depends on remittances, is expected to particularly suffer from the fallout. Alfonso Vargas Romero, secretary of the state's indigenous communities organization, has warned that youth in the state's indigenous communities are particularly vulnerable to recruitment by criminal organizations. State and federal authorities have recognized that mayors of such communities are obligated to pay criminal groups for "protection," in large part a result of lacking public services and infrastructure. Authorities also point to a recent rise in drug use among indigenous youth as a direct symptom. Vargas Romero attributed the problem of criminal infiltration of indigenous communities entirely to economic factors. "All of this has arisen due to a lack of work opportunities; we have many weaknesses and our communities are easy prey, particularly the youth, for being absorbed by these organized crime groups that are attacking us all."

For his part, Mario Enzástiga Santiago, president of the Center for Municipal Development (Cedemum), said that criminal infiltration is a problem that affects an alarming number of municipalities throughout the nation. He stressed the need for government at all levels to promote the creation of jobs, health, and other services in the municipalities to offer citizens viable and legitimate means of survival.

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## POLICE RESTRUCTURING

### **Federal Agency of Investigations to operate under the Federal Preventive Police**

As part of a restructuring of federal police forces under way now for more than a year, the Federal Agency of Investigations (AFI) will merge with the Federal Preventive Police (PFP), and will operate under the Public Security Secretariat (SSP), instead of the Attorney General's Office, as it currently does. The move comes as part of a process of creating a centralized national police force. The planned restructuring has prompted widespread protests by AFI agents as well as pointed criticism from members of the Revolutionary Democratic Party (PRD) and some security analysts. Meanwhile, attorney general Eduardo Medina Mora has attempted to calm the unrest by insisting that the AFI's investigative functions will not be compromised, and that agents' job security is not at risk. The Calderón administration's proposal to merge the two agencies seeks to "align the efforts of the federation in the combat, investigation, and prevention of crimes."

The AFI was created in 2001 and led during the Vicente Fox administration by Genaro García Luna, now head of the SSP and architect of the current police restructuring efforts. During that time, García Luna praised the agency as "modern and scientific," part of the "ultimate solution to corruption, inefficiency, and infiltration of crime in the police forces."

The PRD has opposed the move largely on legal grounds, stating that article 21 of the administrative law (Ley Orgánica) governing the Attorney General's Office states that the AFI must be under the direction of the Office of the Public Prosecutor. Some security analysts have raised similar concerns over the unification of investigative and preventive forces. An event that raised red flags for many was García Luna's move to order SSP agents to occupy AFI offices on Sep. 24, precipitating a series of demonstrations by AFI agents. The turmoil surrounding the impending absorption of the AFI by the SSP has sent a clear message that despite assurances from Medina Mora and García Luna that the move has been transparent and long-anticipated, there exist deep divisions among federal law enforcement agencies and widespread worry that the coming merger will result in a potentially compromising concentration of power.

#### **SOURCES:**

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Mayén, Víctor. "Fusión PFP-AFI contraviene la Constitución: PRD." *Rumbo de México* 28 Sep. 2008.  
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## DRUG POLICY

### **Calderón sends a proposal to Congress to eliminate prison sentences for minor drug possessions**

Pres. Calderón has sent a proposal to Congress to increase penalties for convicted small-scale drug dealers to up to 8 years in prison, while foregoing criminal procedures for those found in possession of quantities of drugs deemed for personal use and who agree to enter a drug treatment program. In defending the move, Calderón stressed the importance of distinguishing between dealers who target the vulnerability of Mexico's youth and individuals who suffer from substance abuse, which should be treated as a health issue. According to a recent government study, the number of Mexicans addicted to drugs has nearly doubled to 307,000 since 2002, though addiction specialists claim that the numbers are much higher.

Responding to allegations that he is seeking to legalize drugs, Calderón clarified that his proposals aim to clearly establish criteria for defining drug violations. Drug possession will not be tolerated, he said, but rather answered with increased and mandatory drug treatment programs. According to his proposal, no legal action would be taken against those possessing up to a gram of cocaine, two grams of marijuana or opium, 50 milligrams of heroin, or 40 milligrams of methamphetamine. Those possessing more than and up to a thousand times these amounts would be considered by law to be in possession with the intent to

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distribute, and subject to prosecution by state or municipal authorities. Those found with more than a thousand times the quantities designated for users would be handled by the Federal Attorney General's Office (PGR).

Under current law, judges are at liberty to not impose criminal sanctions on an individual if they demonstrate chemical dependence and if the drugs in possession are deemed to be for personal use. Calderón's proposal, it seems, would serve foremost in establishing clear parameters between drug use and drug trafficking, thus removing a great deal of discretion currently exercised by judges in such cases.

The president's proposals have met with a range of reactions from legislators in both houses of Congress, who at this point have only agreed that a vigorous discussion is needed. Leading deputies from the National Action Party (PAN) and the Revolutionary Institutional Party (PRI) have expressed reservation. PRI deputy César Duarte cautioned that similar moves in other countries have not achieved the desired outcomes. For his part, president of the Health Committee in the house of deputies Éctor Jaime Ramírez Barba (PAN), questioned how a legislature that recently banned smoking cigarettes in confined spaces in Mexico City can now consider effectively condoning the smoking of marijuana. Legislators from the Democratic Revolutionary Party (PRD) have for the most part been more open to the proposals.

The move to free up valuable law enforcement resources to pursue traffickers and dealers and entrust addictions to the health care sector has met with approval from some analysts. Writing for *El Universal*, security expert Jorge Zepeda said that decriminalizing drug use is crucial in focusing the fight against drug traffickers and discouraging corruption and arbitrary sentencing by judges. Jorge Chabat, also writing for *El Universal*, pointed to the ultimate fallacy of tempering citizens' lifestyle choices by criminalizing them.

Calderón's measure is not without precedent – a similar move was made in 2004 by Pres. Vicente Fox, and later approved by Congress. Fox ultimately vetoed the bill, reportedly under pressure from Washington, which had expressed concern that such a move would encourage U.S. citizens to cross into Mexico for drug tourism. Calderón's stipulation requiring entry into drug treatment may serve to reduce such worries. Mr. Fox has applauded Calderón's proposals, calling him "the first president to take seriously the idea of protecting our youth."

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## VIOLENCE AGAINST WOMEN

### High profile murder of U.S. activist draws international attention to violent crime in Mexico

In mid-September, 20-year old U.S. citizen Marcella "Sali" Grace Eiler was found dead in a cabin near the hillside town of San José del Pacífico, located 80 miles from Oaxaca City. According to the coroner's report, Eiler was badly beaten and received multiple blows from a machete, including a fatal puncturing of her heart. Eiler, originally from Eugene, Oregon, was a dancer and social activist working with the "Ricardo Flores Magon" Popular Indigenous Council of Oaxaca, an indigenous rights organization in Oaxaca City. At the time she was killed, Eiler was reportedly visiting San José del Pacífico to raise money.

According to the Associated Press, Eiler was living with the family of a witness in the controversial killing of Bradley Will, a U.S. journalist shot while documenting the violent 2006 protests against Oaxacan

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Governor Ulises Ruiz Ortiz. The circumstances of Will's death are under dispute, with family members indicating possible involvement by state officials and the state attorney general alleging that Will was shot by a protester. After her death, co-workers indicated that Eiler complained about surveillance by plainclothes police outside her host family's home.

Her alleged killer was ultimately identified as Omar Yoguez Sin Gu, 32, also nicknamed "The Cannibal" and "The Franky." Sin Gu was identified as a bongo-player and vender of artisan crafts, associated with hippies who frequent the Mexico City plaza of Coyoacán. Sin Gu claimed that he met Eiler and her friend Julieta Cruz Cruz in San José del Pacífico at a local tavern on September 14. After buying her a drink, Sin Gu took her to a ranch located a short drive from the town, where both allegedly consumed marijuana and cocaine. Additionally, Sin Gu is believed to have consumed psilocybin or "magic" mushrooms, for which the town of San José del Pacifico is known; these mushrooms have a wide range of unpredictable hallucinogenic effects that can last for several hours. Sin Gu claims that he had sexual relations with Eiler, followed by a violent argument that resulted in her death. There is controversy over Sin Gu's claims of consensual sex and drug-induced hysteria, with counter-allegations that Eiler was raped and murdered.

After the murder, Sin Gu departed for Acapulco and later returned to Mexico City. Eiler's badly decomposed body was discovered on Sep. 24 and relocated to the municipality of Miahuatlán, where U.S. officials and her family identified the body prior to cremation and return to the United States. On Sep. 27, Sin Gu was arrested by Mexico City police after being turned in by friends to whom he had reportedly confessed the crime. When Sin Gu was later presented to the media, his face appeared badly beaten, reportedly by the same friends who turned him over to police.

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## **TRANS-BORDER CRIME**

### **Mexican criminal organizations cultivating marijuana on US public lands, say US and Mexican officials**

Increased border enforcement is resulting in more marijuana being cultivated on the U.S. side by Mexican cartels, say U.S. authorities. Much of the growing is reportedly happening on public lands, where authorities have found sleeping areas, showering and cooking facilities, complex irrigation systems, and industrial fertilizers and pesticides, some of which are banned in the United States. John Walters, director of the Office of National Drug Control Policy, estimates that between 75 and 80 percent of marijuana grown outdoors in the United States is on public land.

Walters says that a tighter southern border is making it harder for Mexican cartels to smuggle marijuana into the United States, so many growers are moving their growing operations north of the border. Authorities say that the number of marijuana plants confiscated on public lands in California totaled 75 percent of overall seizures in 2007, up from 40 percent in 2001. Seven-hundred grow sites were found in that state during 2007 and 2008, with the largest number identified in Sequoia National Forest. While California seems to be the state hardest-hit by such operations, the problem extends north into Washington and east to mid-western states such as Kentucky. National parks have also suffered damage. In 2007, more than 20,000 plants were destroyed in Yosemite National Park and 43,000 in Sequoia Kings Canyon National Park. In August, over 16,000 plants were found in Washington State's North Cascade National Park from a site that authorities closely resembled operations in California linked to Mexican cartels. Nobody has been arrested in connection with the find.

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## ACCOUNTABILITY & TRANSPARENCY

### CORRUPTION

#### **Transparency International and COPARMEX assess corruption in Mexico**

The latest annual assessment of global corruption by Transparency International found that Mexico is not any better – or worse – than last year. That's according to public perceptions registered in surveys the group uses to create their analysis, which was released in late September. Mexico holds on to the same ranking it held last year – 72 - out of a total of 180 countries.

The rankings place the country in the same grouping as Peru, China, and Suriname. Mexico's standing ranks below Cuba, El Salvador and Colombia. The Transparency International corruption perceptions index measures perceived levels of public-sector corruption and draws on expert and business surveys to grade the countries on a scale of 1 to 10. Mexico got a score of 3.6.

The stagnant showing came as no surprise to the Secretary of Economy's state representative in Puebla, Miguel Angel Mantilla Martinez, who spoke openly about that state's corruption problems in October. Mantilla estimates that 26 percent of businesses in Puebla – which is ranked fourth in Mexico as most corrupt, according to a 2007 study by Transparency Mexico - contribute to corruption by paying off public officials as a way of avoiding government bureaucracy. He also said businesses also use corrupt practices by charging for services and goods that are higher than their actual cost. One example of that, he said, is when banks charge up to 70 percent interest rates for credit cards. Mantilla said companies typically set aside 5 percent of their annual earnings to pay off public officials.

Transparency International's assessment was one of several barometers of corruption in Mexico that were being talked about this past month. In Durango, officials there said they were pleased to see their state ranking rise from 25<sup>th</sup> to 13<sup>th</sup> place in the category of "transparency and availability" according to another measurement tool used by a financial consulting and analysis group called Aregional. Durango state congressman Jorge Herrera Delgado told media the improvement was a result of changes and additions to a number of fiscal codes on the state and local levels.

COPARMEX, a national business association, also released its assessment in late September of how governments in the 32 Mexican states are doing in matters of transparency and the use of funds and proof of expenditures. The study looks at five factors: Fiscal Strength, Government Professionalism, Culture of Transparency and Documentation of Funds, Investment Climate and Assignment of Funds. The information is based on 2006 statistics obtained from a number of government groups that collect statistics, such as the INEGI. In making its calculations, the group takes into account each state's hardships in terms of resources and public security issues to create a more level starting point.

Based on these formulas, COPARMEX ranked the states of Nayarit, Baja California and San Luis Potosi as the top three overall and Oaxaca, Michoacan and Hidalgo as the bottom three overall. In the category of Culture of Transparency and Documentation of Funds, Nayarit obtained the top spot, followed by Aguascalientes and then Baja California. The bottom three were Zacatecas, Oaxaca and Tabasco.

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Indice Coparmex del Uso de Recursos, 2008 findings at <http://www.icur.org.mx>

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### **All in the Family: Nepotism in Tlaxcala state**

The Tlaxcala state's comptroller unit, the *Organo de Fiscalización Superior*, warned Chiautempan city officials in late September that the number of closely-related family members who had ended up getting jobs there was highly unusual. The state comptroller, which monitors the use and destination of public funds in cities and states here, found seven cases of suspected nepotism and sent a note to the mayor warning the municipality that they should address this abnormality or face sanctions for violating the city codes against nepotism. The warning follows the accusations of several Chiautempan council members that members of various city offices were related to each other by marriage, in-law, and blood ties.

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### **Contest puts spotlight on "most useless" bureaucratic process**

Last month the Secretary of Public Function launched a campaign - "El tramite mas inutil" - to encourage residents to share their stories of inefficiency and corruption while dealing with Mexican officials and government agencies. The premise of the contest is that people are tempted to use bribes when faced with overly-bureaucratic processes. Earlier this year, Transparency Mexico released findings that Mexicans spent about 8 percent of family incomes in 2007 on bribes, paying about \$2.6 billion last year through over 197 million bribes (nearly two for every Mexican citizen).

The contest will last through Oct. 31, and both Mexicans and foreigners are invited to submit their stories by filling out a form on the agency's web page. The submissions, which will be judged by a panel of citizens, include the president of Transparency Mexico, Federico Reyes Heróles. Winners will be chosen for most useless processes on the city, state and federal level with prizes ranging from \$10,000 to \$30,000.

The Secretary of Public Function, Salvador Vega Casillas, claims to have already reduced corruption in Mexico by 11 percent by creating more simple bureaucratic procedures and providing greater access for residents to file paperwork. He is proposing eliminating more than 4,200 overly bureaucratic processes in the federal administration as a way to discourage corruption.

**SOURCES:**

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"Se redujo en un 11% la corrupcion en Mexico: Vega Casillas," (no author listed). *El Porvenir*. 15 Oct. 2008

## **POLICE BRUTALITY**

### **Oregon man arrested and beaten to death by police in Cabo San Lucas**

U.S. tourist Sam Botner of Yancalla, Oregon, was arrested on Aug. 27 in Cabo San Lucas for pulling a knife during a fight with another guest in the parking lot of San Jose del Cabo resort. Botner was later found dead in a jail cell where Mexican prosecutors say the Oregon tourist drowned in his own blood while in police custody. The U.S. media reported that Botner, 38, was examined by a doctor shortly after arriving at the jail and was found to have minor injuries to his face and nose. Forty minutes later, after a severe beating at the hands of police revealed by a surveillance camera, he was dead. A Mexican judge found four San Jose del Cabo police officers guilty of homicide within two months of the murder. The case was solved with significant expediency, which some attributed to the high degree of attention applied to this case as a result of Botner's U.S. citizenship.

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## ACCOUNTABILITY

### **Inter American Press Association and Committee to Protect Journalists call for more protections for reporters, greater accountability**

Drug-related violence against journalists working in Mexico came under scrutiny from several international media organizations that want the Mexican government to take more concrete steps to protect reporters – such as classifying crimes against journalists as federal crimes.

Journalists are often put at risk when reporting on crimes that involve the collusion or complicity of government authorities. The inability to ensure an environment in which journalists can pursue such stories contributes to a lack of government accountability. Mexico continues to be one of the most dangerous countries in the hemisphere to work as a journalist, according to Gonzalo Marroquin, president of the Commission for Freedom of the Press and Information, which is part of the Inter American Press Association (IAPA). Marroquin criticized Mexican authorities for not doing more to investigate crimes against journalists, and promised to put more pressure on the Mexican government to bring the killers to justice. In many of the cases, corruption within Mexican law enforcement and prosecution agencies is suspected of preventing the investigations from moving forward.

Meanwhile, the Committee to Protect Journalists released a report in late September documenting setbacks in the cases of seven Mexican reporters who have vanished since 2005, and who are presumably dead. The Committee has documented 21 killings of journalists in Mexico since 2000, making it “one of the world’s deadliest nations for journalists,” according to the recent report. The Committee wants the Mexican government to classify crimes against journalists as a federal offense and the congress is expected to tackle the issue this fall, according to the Committee to Protect Journalists.

Members of the Mexican federal congress are holding discussions to detail the proposed law with the expectation that it will be presented for formal consideration within the next three months, according to the Center for Journalism and Public Ethics ([www.cepet.org](http://www.cepet.org)), a Mexican non-profit group dedicated to promoting freedom of expression and documenting actions against journalists.

Part of the discussion requires defining who is a journalist since Mexican laws don’t define it concretely. Fernando Garcia Cordero, the legal advisor of the Inter American Press Association, defines a journalist in this way: “Whatever person who does communication as part of their job, whether or not they are paid, and whether or not they are Mexican or not, and who exercises the liberty of expression as a job, voluntary labor or profession to inform the society about themes of the common interest, independent of their scholastic background.”

#### **SOURCES:**

- Bonello, Deborah. “Mexico continues to be one of the most dangerous place for journalists.” La Plaza blog, *Los Angeles Times*. 8 October 2008
- Campbell, Monica & Salazar, Maria. “The Disappeared.” *Special Report from the Committee to Protect Journalists*. 30 Sept. 2008
- Press Release, Camara de Diputados. “Analizan propuestas para elaborar iniciativa de ley sobre federalizacion de delitos contra periodistas.” Boletín 2975. 9 Sept. 2008.

## TRANSPARENCY

### **IFE prepares for more open elections in 2009**

The Mexican Federal Electoral Institute (IFE) plans to install 146,000 voting places, which represents an increase of 16 percent in comparison with the numbers of voting places installed in the 2006 elections. They will also increase the number of so-called “*casillas extraordinarias*,” or special voting places for people to vote at when they aren’t in their home cities or states, from the previous number of 3,920 to 7,840 in 2009. Among the goals of the Institute’s preparation phase will be “to make transparent the electoral process, open the system of information, and be ready to provide clear statistics convincingly and quickly on the same day of the election,” according to the IFE press release.

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The IFE expects to conduct a total of 400 preparation activities in 10 months that include the implementation of a new model of political communication in order to guarantee the equality and transparency of the electoral process, despite receiving 11 percent less funding than in the 2003 elections. Among the planned activities includes setting up the groundwork for a monitoring system to keep tabs of compliance with campaign propaganda rules. The IFE will monitor about 23 million campaign advertisements expected to be transmitted by the political parties by following propaganda placed on 576 radio stations and 729 television stations. The IFE hopes that these steps and others will promote civic culture and guarantee broad citizen participation.

**SOURCES:**

"Instalara IFE 146 mil casillas en comicios 2009," (no author listed). *El Informador*. 9 October, 2008. Press release, Instituto Federal Electoral, No. 142. "Atendera el EFE 53 nuevas atribuciones con menos presupuesto que en el 2003." 5 October 2008.

### **PRI more open to transparency in the Federal District?**

The long-standing Institutional Revolutionary Party was routinely criticized for becoming corrupt and lacking transparency after years of consolidating its power base and more than 70 years' worth of federal rule in Mexico. But it seems to have turned over a new leaf in Mexico City, according to the Federal District's Institute for Access to Public Information ([www.infodf.org.mx](http://www.infodf.org.mx)). The Insitutute found that the local PRI and the Social Democratic Party are the most committed to transparency since the information they are providing in response to requests is not being challenged through appeals or "recursos de revision," which would indicate failure to provide adequate answers to public inquiries.

The "recurso de revision," is a legal right that a person has to challenge a determination by an agency that the information they are seeking is not available for public review or if the information provided is considered incomplete. Neither the PRI nor the *Partido Socialdemocrata* have any "recursos de revision" from May through September. During that time frame, the National Action Party received 124 requests for information and seven appeals for information while the PRD had 99 requests for information and 2 appeals for information. In comparison, the Social Democrats had 123 requests for information and the PRI had 85 but neither party had received a follow-up appeal.

**SOURCES:**

Grajeda, Ella. "PRI y PSD locales, los mas comprometidos en transparencia: InfoDF." *El Universal*. 30 Sept. 2008.

## **HUMAN RIGHTS**

### **National Human Rights Commission raises red flag over rising kidnappings of Central American migrants**

The National Human Rights Commission (CNDH) has warned of an increasing number of Central American migrants falling victim to kidnapping, extortion, and sexual abuse en route to the United States, particularly in the transit states of Coahuila, Chihuahua, San Luis Potosí, Sonora, Tamaulipas, Tabasco, Veracruz, Oaxaca, and Chiapas. The organization added that in the latter four states, such activity is often perpetrated by ex-police officers, and that in all of the cases criminal organizations exploiting Central American through-migrants often operate with the complicity of law enforcement agencies.

The CNDH based its findings on direct testimonies from Central Americans claiming to have been victimized, and also from migrant advocacy groups themselves claiming to have received such reports. The reported incidents, according to the Commission, have involved between one person and as many as a hundred in one case. Such victims are even less likely than most to report crimes to authorities, given their vulnerable position as unauthorized migrants. The CNDH has insisted that it is the responsibility of the state to protect those existing within the national boundaries regardless of origin, and warned against losing sight of a crucial human rights issue in the midst of the nation's current public security challenges.

**SOURCES:**

"Alerta CNDH sobre secuestro de migrantes." *El Universal* 5 Oct. 2008.

## HUMAN TRAFFICKING

### Human rights advocates seek to redefine struggle against sexual exploitation of minors

A number of leading academics and human rights advocates gathered on Oct. 7 in Mexico City for the Campaign Against the Commercial Sexual Exploitation of Minors. The conference established a central objective of working toward a paradigm shift in how the media, civil organizations, the business sector, and governmental institutions promulgate the issue of child sexual exploitation. Participants of the conference concurred that at the center of the problem is a tendency to normalize the issue, consequently creating a culture of permissiveness around the problem.

María Isabel Belausteguigoitia, director of Gender Studies at the National Autonomous University of Mexico (UNAM), indicated that a deeply entrenched sense of gender roles in Mexican society is at the heart of the problem, wherein women are valued for reasons different from their male counterparts. This, along with a widespread breaking up of Mexican families as a result of poverty and migration, has put women in a particularly vulnerable position, she said.

For his part, Federal District Human Rights Commission (CDHDF) president Emilio Álvarez Icaza focused on government's shortcomings in addressing the problem. He called upon Federal District lawmakers to draft clear legislation to address the issue of trafficking of minors in the capitol. "An essential ally...of this invisible war is ambiguous and insufficient legislation that gives resources to the aggressor, leaving girls, women, and adolescents vulnerable," he said. Álvarez Icaza indicated that there exist proposals in congress to strengthen punishments for sexual exploitation of minors and to require internet cafes to block websites displaying child pornography and promoting sexual tourism, but they have been delayed in the legislative process.

According to the Diagnostic of Human Rights released by the government of the Federal District in early October, there are as many as 250,000 women and adolescents involved in prostitution, nine of ten of whom began at between 12 and 13 years of age. Organizations advocating on behalf of exploited women and children, however, estimate the numbers to be far higher.

#### SOURCES:

"Explotan a 7 mil niños al año en DF." *La Jornada* 7 Oct. 2008.  
Santibañez Alejandre, Narce. "Presentan segunda etapa de ¡Simplemente, no lo aceptamos!" *CIMAC noticias* 7 Oct. 2008.

## AROUND THE STATES

### Chihuahua legislature considers state-level justice reforms

In accordance with the federal justice reforms passed this spring in Mexico's congress, Chihuahua's congress is now considering reforms to its own legal code that include warrant-less home searches in the cases of "flagrancy," defined under the proposed legislation as limited to the period immediately following the occurrence of a crime in which a suspect is being actively pursued. The legislation also proposes increasing the investigative responsibilities of municipal police, permitting citizens' arrests, and allowing for pretrial detentions only in cases of homicide, rape, kidnappings, and crimes against children. The proposed legal reforms also would establish presumption of innocence in criminal proceedings, and improve defendants' representation by such means as requiring that defense attorneys possess a law degree.

While measures to reform criminal proceedings via presumption of innocence and oral trials have met with nearly unanimous support, the provision that would allow for warrant-less searches and another that would allow law enforcement officers to obtain warrants from a judge electronically have drawn criticism from many attorneys and judges alike. Director of the State Federation of Attorneys José Alfredo Fierro

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and the president of the state Supreme Court Rodolfo Acosta have both warned against warrant-less searches, saying that such a measure could potentially violate civil rights, and add a measure of arbitrariness in leaving law enforcement officers to determine “flagrancy” on a case-by-case basis. Magistrate judge Rodolfo Moreno cautioned that expedited, electronic warrants carry a great risk of abuse of authority by municipal police, and that great care must be taken to ensure that all necessary controls are put in place.

**SOURCES:**

Haro, Ever. “Cocinan ley para allanar casa sin orden de cateo.” *El Heraldo de Chihuahua* 8 Oct. 2008.  
García, Samuel. “Alertan abogados vs cateos al vapor.” *El Heraldo de Chihuahua* 9 Oct. 2008.

**New adolescent justice system with a focus on human rights under way in the Federal District**

The Federal District inaugurated on Oct. 6 a new juvenile justice system, which according to officials will incorporate oral trials for non-felony crimes; include parent involvement in the rehabilitation process; offer clear guidelines for the application of pretrial detention; and prioritize access to education, promotion of a healthy lifestyle, and interaction with society in the interest of social reintegration. The new law will apply to those between 12 and 17 years old; those younger than 12 cannot be detained, and may only be subject to social rehabilitation programs.

According to the new law, pretrial detention may only be applied to defendants who were at least 14 years old at the time the crime was committed, and only for a period of up to six months. Moreover, detention of minors in rehabilitation centers must not interfere with school or work hours, or other activities meant to foster integration into society, and is limited to five years. Moreover, the families of adolescents are to play a central role in helping to develop personalized treatments that strike an appropriate balance between the treatment centers and the family.

Patricio Patiño Arias, attorney general for the Federal District, said that 2430 case files have been transferred to the newly created department of the Attorney General’s Office now in charge of handling adolescent justice. Of those, 784 are currently incarcerated in the five juvenile rehabilitation centers, which until Oct. 6 were operated by the Federal District’s Public Security Secretariat. Authorities have publicly recognized that the current facilities lack the infrastructure needed for meeting the goals of the new system, but Édgar Elías Azar, the president of the Supreme Court, has acknowledged a commitment on the part of government authorities to build a facility in the near future that meets the program’s support needs.

**SOURCES:**

Baranda, Antonio and Henia Prado. “Arranca nueva forma de juzgar a menores.” *Reforma* 6 Oct. 2008.  
Servín, Mirna, Raúl Llanos, Alfredo Méndez, and Bertha Teresa Ramírez. “Sin presupuesto fijo ni instalaciones terminadas, la custodia de menores.” *La Jornada* 7 Oct. 2008.

**Oral trials in two years in Nuevo León, say authorities**

Authorities in Nuevo León predict that oral trials will be implemented on the state level within the next two years. Gustavo Adolfo Guerrero Gutiérrez, president of Nuevo León’s Supreme Court, said that with the 31 new courtrooms now standing statewide, the infrastructure is in place for oral trials. Nuevo León, along with Chihuahua and Oaxaca, is held up as exemplary among Mexican states in the application of a new, accusatory system of justice. Gustavo Adolfo Guerrero Gutiérrez, president of the state Supreme Court, lauded the state’s accomplishments in oral trials for criminal proceedings, adolescent justice, and more recently oral proceedings in civil and family law cases. “I think we will be the first state in the country to meet the goals established in the federal constitutional reforms,” he said.

**SOURCE:**

Santacruz López, Israel. “Aplicarán juicios orales en todo Nuevo León.” *El Porvenir* 4 Oct. 2008.

**Attorneys in Baja California speak out against impending justice reforms**

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After a closed-door meeting in which representatives of attorneys and Baja California law schools were informed by state officials as to the details of implementing the federal justice reforms approved by Mexico's congress this spring, attorneys are voicing their concern over the coming process. Skeptics are primarily worried about the lack of law programs in the state's colleges offering training in the fundamentals of the new system. Also of concern to the attorneys is the effectiveness of the state's infrastructure. One attorney characterized the rooms of some judges in Ensenada as "practically mobile offices," far too small to accommodate a panel of judges, defense attorneys, and other personnel required under the new system.

Baja California authorities have committed to a relatively aggressive timeline for implementing the reforms. In the capital city of Mexicali they are slated for June of 2009, followed by Ensenada in June of 2010 and Tijuana in June of 2011. Under the federal reforms, individual states have up to eight years to fully implement the new system.

**SOURCE:**

García Ochoa, Sonia. "Rechazan abogados aplicación de nuevo sistema de justicia penal." *El Sol de Tijuana* 27 Sep. 2008.

The Justice in Mexico Project *researches justice-related reform developments in Mexico at the national and sub-national levels. Through its coordinating institution, the Trans-Border Institute (TBI) at the University of San Diego, the Project disseminates research organized under three broad categories: order, accountability, and access to justice.*

*As a research output, the Project produces monthly reports based on news monitoring of federal- and state-level developments. An archive of these reports is available at <http://www.justiceinmexico.org>. Click on the news tab and then the news archive selection to access the archive.*

*Summaries for this report were compiled and edited by TBI Research Associates Cory Molzahn and Anna Cearley, with assistance from Judith Davila, Morayma Rodriguez, and Ruth Soberanes.*

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