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Guaranteeism in the Delivery of Justice in Mexico

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Abstract

Guarantee seems to be the word of fashion in the legal environment to the extent that many devotees have produced interesting articles about the term and its misapplication abuse; however, it is essential to recognize that the current rights-based makes the right to limit guarantor power whether public or private. The procedural influence has been felt irrefutably with the transformation of the legal systems of many countries and has resulted in an equally profound reform of justice, seeking a more efficient and equitable delivery of justice. Can you talk about achievements in Mexico? This is the essential point that seems to analyze the social and legal perspectives.

Keywords

Guaranteeism, Process, Fundamental Rights, Justice

1. Introduction

For an adequate study of the topic under analysis, it is essential to broadly examine the guarantee through legal doctrine. To establish its influence on the Mexican legal system, as well as a brief review of the evolution of the latter until reaching the constitutional reform examined abundantly by the doctrine, without overlooking a cursory analysis of the procedural systems of some federal entities of Mexico that have undergone profound reforms, transforming them in the light and watershed of guarantee's; here emphasizes, just like Rafecas (2025) that this:

> It is only viable in democratic states and duck what,…penal guaranteeism is the current of thought that, basically through the simultaneous criticism of ineffective penal norms and invalid penal practices, tends to reduce the gap

between the normative level and what happens, between the "should be" and the "being", in the field of penalty. (Rafecas, 2025: p. 160)

In turn, Ferrajoli (1995) talks about three meanings of guarantee:

A) The normative model of law is integrated into a system that aims to minimize the can and what generates guardianship techniques effectively to minimize existing violence, increasing freedom and "in the legal field it generates a system of links imposed on the punitive power of the State". (Ferrajoli, 1995: p. 851)

B) Legal theory of validity and effectiveness, which "expresses a theoretical approach that keeps what is and what should be separated" (Ferrajoli, 1995: p. 852), closely referring in this second point to what was perceived by Rafecas (2025) mentioned above.

C) Political philosophy "that imposes on the law and the state the burden of external justification in accordance with the goods and interests whose protection and guarantee constitutes precisely the purpose of both". (Ferrajoli, 1995: p. 853)

Starting from these meanings, whose analysis we will not extend as it is unnecessary for the development of this work, it is also essential to conceptualize guaranteeism. Among the doctrinaires that have been doomed to this, we can cite Córdova Vianello (2007), who affirms:

Guaranteeism is a legal current that is based on the recognition of the fundamental rights of individuals and their effective protection and guardianship as the touchstone of the constitutional design of the State. From this point of view, the function and purpose of public institutions are, precisely, to respect and protect that set of prerogatives of individuals that are reflected in civil, political, and social rights, essentially.

Consequently, we can deduce that the effective protection of fundamental rights is the essence of guarantees, and in this context, we must analyze what the Political Constitution of the United Mexican States (Constituent Congress of 1917, 1917) was previously established inappropriately under the heading of "individual guarantees", and what it currently considers as rights human, examined the differences of these words and that of fundamental rights that in our opinion are not synonyms, clarifying that the Mexican Constitution uses the three terms in various articles of the fundamental charter so we will examine the most relevant ones for this comparative exercise., namely:

In Chapter I, title first, under the heading "human rights and their guarantees", from which we can clearly establish that the Mexican legislator, contrary to what occurred in the previous constitutional wording, distinguishes the rights from the guarantees that safeguard them under this heading, determining to the letter the fundamental letter in its first article that:

Art. 1.: In the United Mexican States, all people will enjoy the human rights recognized in this Constitution and in the international treaties to which the

> Mexican State is a party, as well as the guarantees for their protection, the exercise of which may not be restricted or suspended, except in the cases and under the conditions that this Constitution establishes…
> Article 33 of the Constitution has the same terminological tenor, which provides "Art. 33.: Foreign people are those who do not possess the qualities determined in Article 30 of the Constitution and will enjoy the human rights and guarantees recognized by this Constitution."

Notwithstanding the above, the second article that recognizes the multicultural formation of the country, in its second section, uses the term *individual guarantees*[1], which we consider is due more to an omission when carrying out the constitutional reform than to the preservation of this terminology. However, when continuing with the fundamental text, we must highlight its use.

> Article 2o.
> […]
> Inc. A, frac. II. Apply and develop their own regulatory systems in the regulation and solution of their internal conflicts, subject to the general principles of this Constitution, respecting the individual guarantees, human rights, and importantly, the dignity and integrity of women. The law will establish cases and procedures for validation by the corresponding judges or courts.

On the other hand, regarding fundamental rights, we find it only mentioned in Article 20, section IX, which orders "IX. Any evidence obtained with violation of fundamental rights will be null."

It is evident, under the current schemes of editors, that our Constitution makes a distinction between human rights and their guarantees. However, it seems to use the term fundamental rights as a synonym for that of human rights in the latter precept when referring to the protection of due process, an extreme that is little accepted by legal doctrine, and there is a unanimous consensus in the distinction of rights and their guarantees, for example, Ignacio Burgoa established in this regard: "…the relationship that exists between human rights, public subjective rights and … guarantees. The first, for their ethical imperatives, condition the constitutional provision of the latter who in turn are involved in the guarantees of the governed." (Burgoa Orihuela, 1995: p. 55)

Let us remember that Ferrajoli (2001: p. 59) himself establishes the difference between the right as such and its guarantee, and in his opinion, the existence or not of the latter does not condition the former. However, in our opinion, it is necessary that the legal system expressly determines the mechanisms professionally through which the right is preserved. Otherwise, it can elude concretion and only contain a duty that is difficult to land in the legal sphere of citizens.

The difference between human and fundamental rights essentially focuses on the form of their regulation and protection. The former is reflected in interna-

[1]The cursives are ours.

tional instruments; however, for their safeguarding through transnational Human Rights courts, essentially represented by the European Court of Human Rights and the Inter-American Court of Human Rights, they do not have compulsive force while fundamental rights are translated into human rights expressly protected in the fundamental order and since they are safeguarded through the power of the State, there is the possibility of compelling the violator.

2. Methodology

This research is a theory and analytic investigation with a qualitative focus; we use analytic, comparative, epistemic, and hermeneutic methods. The boarding was with the Mexican constitutional reform and its impact on the criminal system and on the human rights of the people. The information was recollected through a literature review and data-based analysis.

3. Guaranteeism and Its Connotations

The penal reform in Mexico arises from international commitments and recommendations of the UN for comprehensive reform in this regard, under the premise that the Mexican constitutional order did not comply with the primary rights contained in the Universal Declaration of Human Rights and at the same time was failing to comply with commitments assumed in the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the United Nations Convention against Transnational Organized Crime (Palermo Convention) and its underlying protocols, pressuring the country to make changes to its legal system that would better safeguard human rights, particularly in the penal system.

This was evidenced in "The Diagnosis of the Human Rights Situation in Mexico", coordinated by the Office of the United Nations High Commissioner for Human Rights in Mexico (2003). In fact, this document contains, practically in the general recommendations and those related to criminal justice, "a clear orientation for the constitutional reforms of 2011 and 2008 in the area of human rights and criminal justice, respectively" (Galindo López & Ramírez Hernández: 2016: p. 28).

Although the reform took place five years after the diagnosis, it has been perceived by legal scholars as rushed and poorly planned, given that the necessary physical infrastructure was lacking, the judges qualified to operate in a new system were lacking, and the regulation itself still appears unfinished. The lack of personnel has generated impunity, and the reduction in the backlog of cases has not materialized in reality. (Hinojosa & Meyer, 2019: p. 3)

This thought, and the characteristics described above, have been one of the most triggering factors of the penal reforms towards guarantees undertaken throughout Latin America, with the states aware that reality had not adjusted to what it should be and was very far from doing so. Thus, very important reforms were undertaken from a constitutional perspective that transformed the penal systems to guarantee in the search for a rule of law that did not fully appear in the face of the constant

violations of the human rights of the defendants and the severe determinations of the Inter-American Court of Human Rights (CIDH for the acronym in Spanish) that showed the state in which prevailing.

This is how they go resolving emblematic cases such as the one popularly called "Cotton Field" which is the Case of González et al. vs. Mexico (Inter-American Court of Human Rights, 2009), where a series of femicides is analyzed in which the Mexican State failed to safeguard the human rights of both the direct and indirect victims and in view of this it is condemned to fully repair the damage caused.

Let us also remember the scandal unleashed against Chile in which the Inter-American Court judged the case popularly known as "The Last Temptation of Christ" which corresponds to the Olmedo Bustos vs. Chile Case (Inter-American Court of Human Rights, 2001), which is based on the prohibition in that country of the exhibition of the film that precisely bears the name "The Last Temptation of Christ" and Chile is condemned for violating freedom of expression and freedom of thought. Of more recent prosecution and greater severity, we find the case of adolescents held in detention and provisional internment centers of the National Minor Service (SENAME) vs. Chile, where the Court declared the Republic of Chile internationally responsible:

> …for human rights violations to the detriment of ten young people who died in a fire that occurred on October 21, 2007, at the "Grow Time" Provisional Internment and Closed Regime Center in Puerto Montt, as well as their families. In turn, it declared the responsibility of the State for human rights violations linked to the conditions of deprivation of liberty in which 271 young people remained who, in various periods between June 12, 2006 and January 24, 2009, was housed in the provisional internment and closed regime centers Lihuén (of Limache), Antuhué (of Rancagua), San Bernardo (of San Miguel) and "Grow Time", which They were in charge of the National Service for Minors (hereinafter "SENAME")... (Inter-American Court of Human Rights, 2024a)

In recent times and despite the previous reforms, we find, as in Chile, the case of Cajahuanca Vásquez vs. Peru According to the introduction to the case made by the Inter-American Commission on Human Rights, the case refers to:

> …the alleged violations of the American Convention on Human Rights that would have been committed in the disciplinary process followed against Mr. Humberto Cajahuanca Vásquez, which resulted in his dismissal as a judge of the Superior Court of Justice of the city of Huánuco, Peru, in 1996. The Commission considered that the disciplinary process followed against the alleged victim violated the judicial guarantees applicable to disciplinary processes followed against judges […] (Inter-American Court of Human Rights, 2023)

In Ecuador, we can cite the Case of Aguas Acosta et al. vs. Ecuador (Inter-American Court of Human Rights, 2024b), where said country is condemned for the serious violation of human rights committed through events in which Aníbal Alonso

Aguas Acosta was subjected to torture, causing his death. Likewise, the Court determined the violation of various rights to the detriment of Mr. Aguas Acosta's next of kin.

With respect to El Salvador, we refer to the Case of Cuéllar Sandoval et al. vs. El Salvador regarding events that occurred in 1982 in which the international responsibility of the Salvadoran State is claimed for the forced disappearance of three people named Patricia Emilie Cuéllar Sandoval, Mauricio Cuéllar Sandoval and Julia Orbelina Pérez, as well as the alleged lack of due diligence in the investigation and impunity for the events, with a conviction being issued to said state in 2024.

Guatemala has not been an exceptional case in this regard. Among the multiple cases against it, we will highlight the Case of Pérez Lucas et al. vs. Guatemala (Inter-American Court of Human Rights, 2024d), where serious violations of the human rights of the victims are also presented. In the text of the ruling, the Inter-American Court establishes that,

> ...in the framework of the internal armed conflict that took place in Guatemalan territory, Messrs. Pérez Lucas, Mateo, Pú Chivalán, and Ruiz Luis were threatened and persecuted by agents of the State security forces due to the activities they carried out in the defense of human rights, being forced to move from the department of Quiché, where they lived, to Suchitepéquez. Once in the last-mentioned place, these people were victims of forced disappearance by members of the Guatemalan Army. …the internal authorities have not fulfilled their obligations to investigate, prosecute, and, if applicable, punish, diligently and within a reasonable period, the events that occurred, nor have they undertaken an efficient, comprehensive, adequate, and diligent search for the whereabouts of the victims. (Inter-American Court of Human Rights, 2024c)

We could compare current and previous cases to the reform that implemented the guarantee in each Latin American country, but this is beyond the scope of the present work. It is enough for us to exemplify with the cases mentioned to affirm that although it is true that the reform was conceived and important efforts have been made to safeguard human rights in the face of the permanent existence of cases before the Inter-American Court, it seems that the ins and the duty are still quite far apart although it is recognized that there has been progress In this regard, it is also evident that there is still quite a long way to go.

4. The Procedural Law in the Guaranteeism

In this context, every time the guarantee is based on the recognition and protection of fundamental rights, it demands the existence of a procedural right that allows and protects the effective judicial process of these and, derived from this, one cannot speak of the effectiveness of the guarantee without a procedural regulation that covers it and give effect to its postulates, since as happens in other areas

of law, it is the legal-procedural norm that allows the safeguard of the protected legal asset[2], which is why his present work emphasizes towards the relationship said standard with guaranteeism and the Mexican legal system, although recognizing that the reform was gestated or throughout Latin America almost simultaneously for its undeniable relevance to the achievement of the guaranteed approaches.

We agree with the Spanish jurist Marina Gascón Abellan that a guaranteeing legal system will be one that:

> …establishes instruments for the defense of the rights of individuals against their eventual aggression by other individuals and (above all) by state power, which takes place by establishing limits and links to power to maximize the realization of those rights and minimize their threats." (Gascón, 2001)

It is derived from the above that the constitutional procedural law, despite the controversial nature of that Fix Zamudio (1999: p. 27) attributed to Kelsen (1974: p. 472), that He later carried out studies along with Calamandrei that gave scientific support to the discipline, in Germany and Italy, respectively. In America, its implementation is attributed to Alcalá Zamora y Castillo (Correa Freitas, 2025) to the discipline that has gained relevance in the current legal environment in a generalized way[3].

It has been conceptualized as "a branch of public law that establishes the organic and functional procedural rules necessary to give real effectiveness to constitutional regulations when a conflict arises between an act of the authority or of an individual and its provisions." (Colombo Campbell, 2002: p. 137) Consequently, the starting point for procedural guarantees will undoubtedly be this important discipline.

It is undeniable that guaranteeism arises eminently focused on Criminal Law, to later extend to other areas of law, so much so that Ferrajoli (1995)'s work that represents the watershed in the currents that support it is called "Law and Reason Theory of Criminal Guarantee", because it is this that is focused in the first place, consequently it is not surprising that this branch is the one that has achieved the most momentum, generating a fundamental modification in the legal systems of many countries. However, as is evident, its development occurs from constitutional law, since the fundamental rights whose protection this current or "methodological thesis" seeks, as Gascón (2001) has called it, will always invariably be enshrined in the Constitution, so there can be no guarantee if it is not based on the constitution.

The transformation of the process is evident. Let us remember, as Manresa Navarro (1955) stated: "The best procedural law is the one that leaves the least place for judicial discretion…. because this discretion is incompatible with liberal institutions." In this regard, it is worth adding.

[2]Although obviously not its existence.

[3]Although there are authors such as Gustavo Zagrebelsky and Peter Häberle who believe that it does not have to be a special discipline that is merely a part of Constitutional Law.

It is true that there is an almost consensual acceptance of adopting guaranteeism positions when conceptualizing the Constitution as the only reference for judicial interpretation and the only parameter of legitimacy or illegitimacy of the norm. However, the effort to overcome neutrality and dogmatism by incorporating reality and its historical process in the understanding of the law is a pending task, learning to read the law in a different way from legal texts.

Mexico, according to some[4] electoral matters, is the first to take a big step towards guaranteeism through the reform that the Mexican Constitution underwent in August 1996[5]. And that was procedural crystallized through the criteria issued, both by the Supreme Court of Justice of the Nation when resolving issues of unconstitutionality and by the Electoral Tribunal of the Judicial Branch of the Federation when resolving the means of challenge that are its own.

The above, by virtue of the fact that, with said reform, the electoral procedural matter first became jurisdictional, which previously, despite the detraction in this regard, was controlled by the federal executive branch, creating for this purpose the Electoral Tribunal of the Judicial Branch of the Federation whose integration and powers were essentially enshrined in article 99 of the constitution, in addition to providing for procedural mechanisms of judicial control of the constitutionality of laws and electoral acts, the above gives life to a system in which could update the democratic principles to which any modern state aspires, and which Ferrajoli analyzes in his work "The Foundations of Fundamental Rights" (Ferrajoli, 2001).

5. Particularities of the Guaranteeism in Mexico

Notwithstanding what has been pointed out, Mexico's shift from the imminently inquisitorial legal system to an adversarial system is not an overnight transition, nor has it occurred easily. Our deeply rooted civil law tradition focused on the figure of the judge as a person alien to the parties. It has even been said pejoratively that they were judges. Readers and sentences, alluding to its role in the traditional system, where there is no contact with the parties, and the judge is judged according to what was done in a written file, without the judge having participated—with few exceptions—in the relief of the means of conviction provided by the parties, and, consequently, has not had close contact with such relief.

Very different from today with the implementation of orality and oral trials in a staggered and the entire national territory, and although orality no and days are totally foreign to the Mexican legal system, derived from the previous labor procedural system, it is not really the same procedural system, since Although it is true that in these procedures there is an important use of oral expression in a broad sense, it does not meet the characteristics or comply with the principles of guarantee, since the latter is characterized by the following essential principles: Orality, understood as the "need for the judicial resolution to be based solely on

[4]In this regard, see: Orozco Henríquez, J. Jesús. Electoral Constitutional Justice and Legal Guarantee, Constitutional Issues, No. 13, pp. 151-203, July-December 2005, Mexico.

[5]Reform published in the Official Gazette of the Federation on Thursday August 22, 1996.

procedural material expressed orally" (CIJUL, 2008).

A. The importance of said immediacy in the process is undeniable since it allows access to other essential principles, such as that of immediacy. Added to the above is the fact that there is direct contact with the parties and other third parties participating in the procedure, and this facilitates the jurisdictional body to visualize all the situations of the process, some of them of a high degree of significance, i.e., the procedural conduct of the parties, the credibility of the witnesses and even whether exists an adequate defense of the person under trial.

B. Immediacy is one of the most important principles of guarantee, closely related to the previous one, and whose foundational goal is "to maintain close contact between the judge on one side and the litigants and all the evidence on the other, from the beginning of the process to the final sentence."

C. Concentration, this entails carrying out the stages of the form. At the same time, through the principle of concentration, the aim is to prevent the procedure from being diluted in the practice of a series of procedural acts that, in this way, can be executed in a single one for the sake of a more agile and better-structured process.

D. Contradiction implies the power of both parties to consult, discuss, and criticize the proceedings of the process with the judge, and translates into the right to appear at trial, be heard at the hearing, and litigate their case before the judge. (De Miguel y Alonso, 2010: p. 791) There is the right of each of the parties to establish their position in the process and, disagree with what the opponent says, and provide evidence for this. (Rentería Díaz y Guillén López, 2022)

E. Dispositive, this principle has always existed in the process since the majority of those that are initiated must begin at the request of a party, with the exception of those in which there is a direct impact on the social interest, for example in criminal matters, in those crimes that are prosecuted ex officious, consequently, regarding the initiation of the procedure there is the dispositive principle on the part of the person whose legal sphere has been violated.

F. Therefore, "the principle meant and means that:

- Only the actor can determine the object of the same, that is, he alone determined the scope of his claim, and with reference to both what he requests and the cause of requesting, and
- Only the defendant could expand the object of the debate, that is, he was exclusively responsible for the scope of resistance in response to the causes of opposition to the claim. The judge could not influence either the claim or the resistance.

This principle is inapplicable in many aspects of the criminal process, but even in this, there is a certain form of provision through the so-called forms of early termination, such as reparatory agreements and the conditional suspension of the process, as well as a form of termination, which is the abbreviated procedure; Although subject to certain conditions, these forms of disposition, which we could say are specific to said process, are provided for in Mexico as of 2014 when the

National Code of Criminal Procedures is promulgated and we say that it is only a certain form of disposition due to its procedural particularities, since they require the intervention of the judge, the public ministry or both.

Regarding the first mentioned, paragraph 186 of the mentioned ordinance says that reparatory agreements are "those concluded between the victim or offended party and the accused that, once approved by the Public Prosecutor's Office or the Control Judge and fulfilled in their terms, have the effect of extinguishing the criminal action".

Cobos Campos, Chacón Rodríguez, Gonzáles Cobos et al. (2018) tell us

> In general, we can say that reparatory agreements allow the conflict to be resolved and help to ensure that the damage is repaired. They respond to criteria of effectiveness by expediting the resolution of the conflict, reducing the burden on judicial operators, and reducing the delay in the administration of justice. However, as they are flexible procedures that allow room for judgments, argumentation and substantiation require great preparation. (Cobos Campos & González Cobos, 2018)

We must clarify that with respect to this form of reparation for damage, the victims are reluctant to accept the degree of justice achieved through them. They sometimes feel pressured to subscribe, and they face some difficulties in terms of compliance, which is sometimes not properly supervised.

Regarding the abridged procedure involved, they are regulated by Article 201 of the National Code of Criminal Procedures. Must be authorized by the Judge of Control and must meet the following requirements:

1) That the Public Ministry requests the procedure for which the accusation must be formulated and the evidence that supports it must be presented. The accusation must contain a statement of the facts attributed to the accused, their legal classification and degree of intervention, as well as the penalties and the amount of compensation for the damage.

2) That the victim or offended person does not present opposition. Only the opposition that is found will be binding on the judge.

3) That the accused:

a) Acknowledge that you are duly informed of your right to an oral trial and the scope of the abbreviated procedure.

b) Expressly waive the oral trial.

c) Consents to the application of the abbreviated procedure.

d) Admit your responsibility for the crime of which you are accused.

e) Accept be sentenced based on the means of conviction presented by the Public Ministry when formulating the accusation.

According to section 202, the Public Prosecutor's Office may request the opening of the abbreviated procedure after the order of connection to the process is issued and even before the issuance of the order to open an oral trial by holding a hearing after summoning the parties. The Public Prosecutor's Office may request a reduction of up to half of the minimum sentence in cases of intentional crimes

and up to two-thirds of the minimum sentence in the case of negligent crimes of the prison sentence that corresponds to the crime for which the accused is accused, provided that he or she has no history of committing intentional crimes.

Finally, It should be clarified that, unlike other legislation, Mexican legislation has always provided for the obligation of the judge to analyze the procedural budgets ex officious, and in state legislation that was not the case. Jurisprudence was applied to clearly reiterate said obligation as a procedural burden of the judge, which became a generalized criterion when the guarantee was imposed and the judge assumed the direction of the process, with the limitations inherent to each branch of law.

Likewise, the legislation in the various areas of law has provided for forms of disposition of the process by the parties regarding its early conclusion by means other than the sentence, such as withdrawal, agreement, and transaction, among others. From the above, it is possible to infer that this is not an exclusive principle of guaranteeism. What is typical of this is the tendency of this current to limit the discretionary powers of the judge, to define itself between "the Legal truth" and the "real truth."

f) Continuing with the analysis of the principles that govern guarantees, Advertising is not new since all codes have established advertising in audiences, but this has not been given effect in practice, according to Chiovenda (1995). Two essential aspects:

- Admission of third parties to procedural actions.
- Both parties must witness all procedural acts.

Because of the application of the previous principles, the advertising principle is adequately completed in its second aspect because the first has always been applied in the processes, whether they are inquisitorial or not. We can conclude that Broad features with some variations are the most important principles that must be preserved in a guaranteeism court process.

In Mexico, the transformation towards guarantee is an important transformation legal part of the federal entities, which are implementing it in their Penal Codes and Criminal Procedures to implement a total change towards the adversarial system, federal entities being pioneers from Nuevo Leon and Chihuahua, as precursors of the reform that was later extended to the entire national territory, although as already said in a phased manner.

The State of Nuevo Leon implemented the accusatory criminal system through decree 118, published in the official state newspaper on July 28, 20004, coming into force in the month of November referred year; subsequently through various decrees of 2005, 2007, 2014 and 2017 reforms were made to the respective legislation, although it is relevant clarify that the Nuevo Leon system does not persist guarantor, but rather as a hybrid system that was formed with part of both the inquisitorial and accusatory systems, and it was not until 2017 that it acquired the characteristics and principles of the guarantee system, leaving the inquisitorial system completely behind.

Mexican jurists believe that leaving behind the Roman-canonical tradition of Mexico and the system does not solve the existing problem; it is not adequate, nor does it imply the desired change, the above derived precisely from the hybrid that characterizes it. Despite the increasingly careful application of the principles, we have referred to in previous paragraphs, legal doctrine remains reluctant in the face of the poor results in terms of security.

- It is the same old traditional written system, now made oral, with some characteristics of the accusatory system.
- The practices of the traditional system have been institutionalized:
  -The tendency is to read the preliminary investigation file.
  -There is a real absence of debates since the parties arrive with their written actions.
  -Objections are practically non-existent.
  -Judges tend to arrive with their decisions prepared.

The Oral Trial Judge reads the order of formal imprisonment before the start of the debate, which may affect his impartiality. Regarding the legislation of Chihuahua, the comprehensive reform of the penal system occurs through the issuance of the new codes of criminal and penal procedures, published in the Official State Gazette on August 9, 2006, and December 27, 2006, respectively.

The particularities that this reform covers are in principle that unlike what happened in Nuevo Leon, Chihuahua leaves behind the inquisitorial system to strictly adopt the accusatory system, based as is known on the guaranteeism current, which is evident from article 1 of the Code of Criminal Procedures of the reference federal entity, which is of the following tenor: "The criminal process aims to establish the historical truth, guarantee justice in the application of the law and resolve the conflict that arises as a consequence of the crime, to contribute to restoring social harmony among its protagonists, within a framework of unrestricted respect for the fundamental rights of people. Fundamental rights will be understood as those recognized in the federal and local constitutions, in the international treaties ratified by the Mexican state, and in the laws that emanate from them".

Likewise, the principles inherent to the guarantee that was incorporated into the reference legal system in terms of paragraph 3 thereof are the following: orality, publicity, equality, immediacy, contradiction, continuity, and concentration, which, with the exception of continuity, were duly analyzed in preceding paragraphs; As for continuity, this principle is reduced to a single judge who knows the process in all its stages, which does not prevent the fact that, once the procedures that correspond to the guarantee judge have been exhausted, once he decrees the opening of the oral trial, the three judges who, as a collegiate body make up the Oral Trial Court, are the ones who hear and resolve.

Another point of interest to highlight is the presumption of innocence, which is expressly established in favor of the accused; let us remember the abuses which the inquisitorial system lent itself. That presumption has not been fully protected

in the reform or in the current legislation.

This is evident in The analysis allows us to establish what the Inter-American Commission on Human Rights determined in 2013 in its Report on the use of pretrial detention in the Americas and ratified by the UN in 2024 in the "Observations of the UN-DH on the regulation of pretrial detention", particularly when say:

> Pretrial detention, by anticipating the punishment threshold of criminal law based on the crime that is the subject of the proceedings, in reality turns pretrial detention into an anticipated punishment, as established by the Inter-American Court of Human Rights. 9 Materially speaking, there is no distinction between deprivation of liberty due to pretrial detention and deprivation due to a conviction; therefore, the mechanical imposition of pretrial detention based on the type of crime violates the principle of the presumption of innocence. (UN, 2024: p. 5)

As is easy to understand, the aforementioned international organizations examine the constitutional regulation of pretrial detention and determine that it constitutes an anticipated penalty and its application violates the presumption of innocence. The modification of the constitutional wording has been repeatedly demanded both domestically by scholars (Ruiz Vargas & Rosales, 2024; Achs & Tron Zuccher, 2024; among many others), and the Supreme Court of Justice of the Nation (2023) itself has determined in its resolutions the unconstitutionality of the constitutional provision that decrees pretrial detention, for example in the jurisprudence under the heading "Pretrial Detention. Article 167 of the National Code of Criminal Procedure, in the portion that regulates it, is unconstitutional, in accordance with the judgment issued by the Inter-American Court of Human Rights in the case of García Rodríguez et al. vs. Mexico." Likewise, we find transnational organizations defending human rights at an external level, as evidenced in the preceding paragraph. However, the Mexican legislator has been negligent in the required reform, despite several initiatives that have been presented in this regard.

In consequence procedural legislation under analysis arises in an effort to resolve a large number of problems of the previous criminal system, ranging from a significant delay in the solution of criminal processes, to the absence of mechanisms to repair the damage caused to those who have been convicted and then proven innocent; However, the new criminal process did not turn out to be the expected panacea, and in the face of the social unrest that has accompanied it since its creation, such a host of reforms have been made to the criminal system, which no longer responds to the principles with which it was created, in such a way that in the face of the decriminalization of some conduct such as insults, adultery, outrages to morals, defamation, etc., which was highly questioned by public opinion, and the classification of criminal types such as of possession of a stolen vehicle that destroys the presumption of innocence, by virtue of the fact that article 212 Bis that typifies it determines:

"Four to fifteen years in prison will be imposed on anyone who, even without

> having intervened in the theft of one or more motor vehicles, engages in one or more of the following behaviors:
> […]
> VI. Stop or possess any vehicle that has been stolen unless acquired in good faith".

In light of such unfortunate reforms and with such little legal technique, it seems that an adversarial system has also been transformed into a hybrid that no one knows where it will take the next turn, in addition to the fact that, apparently, increasing penalties seems to be, for our legislators, the only way to resolve the situation of violence and impunity in which not only Chihuahua but national society develops, but which are sterile for the goal they seek.

There are important figures that guaranteeism has brought with it, and we hope that they are here to stay, such as mediation, the diversity of precautionary measures, the abbreviated procedure, and alternative solutions.

Another vulnerable point that was expected to be resolved with the new penal system, that of the saturation of the CERESOS, has not proven viable so far either, since they continue to be overcrowded.

The common citizen criticizes the penal system because he holds it responsible for the problems of insecurity in which his daily life unfolds, without understanding that it is not the popularly called "oral trials" that are responsible; yes However, it must be recognized that the errors attributed to the new system derive from the lack of legislative thoroughness to prepare the regulatory bodies that support it, since the rush to establish it led to haste and little analysis in the elaboration of both codes and to this were added new errors when carrying out reform after reform, in search of correcting the omissions that the procedural procedures revealed, but the reforms in some points were unfortunate and elaborated with electoral approaches that They have little or nothing to do with legal technique.

The other federal entities have been joining the guaranteeism trend with reforms to their criminal legal system, implementing the adversarial system to a greater or lesser extent. The federal reform has been slower; however, the federal constitution underwent a very important reform in this regard. Constitutional Article 16 was reformed, and among the most significant, we find the consecration of roots in the following terms:

> The judicial authority, at the request of the public ministry and in the case of organized crime crimes, may decree the arrest of a person, with the modalities of place and time established by law, without exceeding forty days, provided that it is necessary for the success of the investigation, the protection of persons or legal assets, or when there is a well-founded risk that the accused will escape the action of justice. This period may be extended if the public ministry certifies that "the causes that gave rise to it subsist. In any case, the total duration of the roots may not exceed eighty days".

In a constitutional precept that has traditionally been one of the substantial pil-

lars of individual guarantees in Mexico, it abruptly becomes a mechanism for discretionary deprivation of these based on a conceptualization of organized crime that convinces no one.

Article 20 of the Constitution expressly establishes: "The criminal process will be adversarial and oral. It will be governed by the principles of publicity, contradiction, concentration, continuity, and immediacy".

A. General principies

I. The purpose of the criminal process will be to clarify the facts, protect the innocent, ensure that the guilty do not go unpunished, and that the damage caused by the crime is repaired.

II. Every hearing will take place in the presence of the judge, without the possibility of delegating to any person the relief and evaluation of the evidence, which must be carried out in a free and logical manner.

III. For the purposes of the sentence, only those that have been presented at the trial hearing will be considered as evidence. The law will establish the exceptions and requirements to admit advance evidence in court, which by its nature requires prior relief.

IV. The trial will be held before a judge who has not previously heard the case. The presentation of the arguments and evidentiary elements will be developed in a public, contradictory, and oral manner.

V. The burden of proof to prove guilt corresponds to the accusing party, as established by the criminal offense. The parties will have procedural equality to support the accusation or defense respectively.

VI. No judge may discuss matters that are subject to proceedings with any of the parties without the other being present, respecting at all times the principle of contradiction, except for the exceptions established in this constitution.

VII. Once the criminal process has begun, as long as there is no opposition from the accused, its early termination may be decreed in the cases and under the modalities determined by law. If the accused acknowledges his participation in the crime before the judicial authority, voluntarily and with knowledge of the consequences, and there are sufficient means of conviction to corroborate the accusation, the judge will summon a sentencing hearing. The law will establish the benefits that may be granted to the accused when he accepts his responsibility.

VIII. The judge will only condemn when there is conviction of the defendant's guilt.

IX. Any evidence obtained in violation of fundamental rights will be null.

X. The principles provided in this article will also be observed in the preliminary hearings of the trial.

The limitations of the accusatory system were already recognized in 2017,

On March 22, the head of the capital's government, Miguel Ángel Mancera,

> attributed the rise in insecurity in Mexico City to the new criminal justice system. In his view, the recent release of 12,000 inmates in Mexico City resulted in an increase in criminal activity not only locally but also nationally. (Córdoba Sánchez, 2017)

Despite high expectations, the reform has not yielded the expected results. Sixteen years after its implementation, we can still say that overcrowding persists in judicial institutions and prosecutorial offices, where they also lack the adequate training and specialization required for oral proceedings. Furthermore, torture and other human rights violations have not been eradicated in criminal proceedings. To top it all off, the federal Congress and several state congresses have passed laws that are incompatible with the new system (Novoa, 2019; Hinojosa & Myer, 2019; Albarenga Pérez, 2019).

The above can be deduced from the data collected by the National Institute of Statistics and Geography in the so-called "National Survey of Urban Public Security," which determined that:

> In December 2024, 61.7% of the population aged 18 and over residing in 91 urban areas [...] considered it unsafe to live in their city. This is a statistically significant change compared to September 2024 (58.6%) and December 2023 (59.1%). In this edition, 22 urban areas of interest presented statistically significant changes compared to September 2024: 4 with reductions and 18 with increases. (INEGI, 2025: p. 3)

6. Conclusion

Contrary to what many believe, we must conclude that Procedural Law is a discipline with full autonomy, and agreeing with Antonio María Lorca Navarrete, we will say that definitely "It is not a subsystem. It is, on the contrary, a system of guarantees that acts with its own autonomy and substantive." (Lorca Navarrete, 2003)

So then, if the procedural law does not provide the necessary elements for a legal system to be truly guaranteed, it does not matter what name we give to it. It will not be because the support is precisely in the appropriate mechanisms to give life to the principles that are its own.

> In this regard and in clear allusion to the unfortunate aspects presented by the Mexican constitutional reform carried out in 2008, Rivero Evia has stated that: "At a historical moment in which there is no criminal policy in our country that is clearly defined and in which the penal system wanders between theories—even constitutionally adopted—finalist and causalist (Rivero Evia, 2016: p. 254), to which is added Gracia Martín (2005: p. 89) the false belief that the hardening of the state's punitive response will serve to decrease in crime rates, the legislative work has given birth to a reform that presents nuances of a clear tendency towards a criminal law of the enemy, in-congruence with the very proposal that presumes to be guaranteeing." (Rivero Evia,

2016: p. 254)

For example, the Mexican Federal Constitution, by allowing 80 days to arraign, no matter how it is justified, leaves behind the guarantee system since it is based on guilt, not the presumption of innocence. In consequence, it may be said that the application of the criminal law of the enemy joining the guaranteeism in Mexico is illogical.

Ferrajoli has already established it clearly: "The more the system of limits and links to public powers is developed, the more the role of the jurisdiction as a control body for the elaboration of law increases." (Pasarello, 1998)

Is the transformation of the Mexican legal system beneficial? We could not affirm it a priori. Mexico, it must be admitted, has serious problems in terms of the administration of justice, which cannot be separated from the serious insecurity that reigns in the country and that has deprived its citizens of the normality of their lives, turning them into fearful people who are renouncing many of the forms of exercising their freedoms for the sake of supposed state protection that they cannot see coming. For legal scholars, it is very clear that insecurity problems are not resolved by restricting fundamental rights. What good then have all the reforms carried out in order to position itself as a guarantor been useful to the Mexican legal system?

One thing is very clear for those of us who analyze the administration of justice from a legal perspective: this is not achieved through life sentences or the death penalty, nor is it achieved by sacrificing fundamental rights in the interest of reestablishing social peace that has been lost for a long time; On the contrary, to the extent that the procedural system allows adequate protection of these, to that same extent it can be said that a legal system, instead of being an applicator of norms, is a dispenser of justice.

It is consequently deplorable that a constitution like ours, which has been a precursor of fundamental and social rights, is now a detractor of them by establishing clearly undemocratic figures that, being procedural in nature, directly affect the delivery of justice. Therefore, the roots in the form and terms that were established must disappear because it is in clear contradiction with the principles of guarantee that it seeks to advocate and that it establishes as a justice system expressly with regard to the criminal process. Referred to in Article 20 of the Constitution.

Likewise, a pending issue in legislative matters is the elaboration of a Constitutional Procedural Code that expressly regulates processes of such a nature that are currently regulated in a supplementary and incomplete manner by various regulations such as the Amparo Law, the Federal Law of Contentious Administrative Procedure and the Federal Code of Civil Procedures among others, in addition to being essential to regulate the functions of the constitutional court that in the facts perform the Supreme Court of Justice of the Nation, in order to of a definition that clearly recognizes it as such, since it is evident that Mexican constitutional procedural law is not inclined towards the creation of a constitutional court out-

side the Court.

It is necessary to recognize that in the current legal context, we are still very far from reaching that level of scrupulousness that will lead us to recover the Mexico that we have lost at the hands of organized crime. It is not the guarantee that has failed; it is the state that has not fulfilled its most important task, and that constitutes one of its primary purposes: the common good. The assumed legal system is just a tool that can be used well or badly. This depends on who its legal operators are and whether they leave behind populist tactics unrelated to real solutions, such as the aggravation of sentences or the restriction of fundamental rights under the pretext of social good.

It is evident that guaranteeism is here to stay, at least for a long time, and that the trend is to extend its principles to the civil process, as some legislation is already doing, and to the labor process, as Spain has already done. Another aspect that the guarantee actually affects is the matter of electoral constitutional justice, in the terms that were mentioned in previous paragraphs.

Mexico will soon be implementing oral civil trials in common law, as occurred in criminal matters, and adequate procedural regulation will be the key to their success or failure in increasing social credibility towards the administration of justice for the sake of a true rule of law.

The analysis allows us to establish what the Inter-American Commission on Human Rights (2013) in its Report on the use of pretrial detention in the Americas and ratified by the UN in 2024 in the "Observations of the UN-DH on the regulation of pretrial detention."

> Pretrial detention, by anticipating the punishment threshold of criminal law based on the crime that is the subject of the proceedings, de facto turns pretrial detention into an anticipated punishment, as established by the Inter-American Court of Human Rights. 9 Materially speaking, there is no distinction between deprivation of liberty due to pretrial detention and deprivation due to a conviction; therefore, the mechanical imposition of pretrial detention based on the type of crime violates the principle of the presumption of innocence. (UN, 2024: p. 5)

As is easy to understand, the aforementioned international organizations examine the constitutional regulation of pretrial detention and determine that it constitutes an anticipated penalty and its application violates the presumption of innocence. The modification of the constitutional wording has been repeatedly demanded both domestically by scholars (Ruiz Vargas & Rosales, 2024; Achs & Tron Zuccher, 2024; among many others), and the Supreme Court of Justice of the Nation itself has determined in its resolutions the unconstitutionality of the constitutional provision that decrees pretrial detention, for example in the jurisprudence under the heading "Pretrial Detention. Article 167 of the National Code of Criminal Procedure, in the portion that regulates it, is unconstitutional, in accordance with the judgment issued by the Inter-American Court of Human Rights

in the case of García Rodriguez et al. vs. Mexico." Likewise, we find transnational organizations defending human rights at an external level, as evidenced in the preceding paragraph. However, the Mexican legislator has been negligent in the required reform, despite several initiatives that have been presented in this regard.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

References

Achs, L. P. D., & Zuccher, T. (2024). Denise, Official Preventive Detention. In L. Ayllon, O. Henriquez, S. Ugarte, & Valadés (Eds.), *Technical Analysis of the 20 Constitutional and Legal Reform Initiatives Presented by the President of the Republic (February 5, 2024)* (pp. 197-218). Institute of Legal Research, National Autonomous University of Mexico. https://archivos.juridicas.unam.mx/www/bjv/libros/15/7483/40.pdf

Albarenga Pérez, Y. A. (2019). *Deficiencies in the Implementation of the New Accusatory Criminal System in Mexico.* https://revistas.ujat.mx/index.php/ecosoc/article/download/3375/2517/17365

Burgoa Orihuela, I. (1995). *Individual Guarantees.* Ed. Porrúa.

Chiovenda, G. (1995). *Law Course Procedural Civil.* Editorial Pedagogica Iberoamericana.

CIJUL (2008). *Centro de Información Jurídica.* https://cijulenlinea.ucr.ac.cr/blog/category/seccion-i-00067-2008/

Cobos Campos, A. P., & González Cobos, C. P. (2018). Alternative Means of Conflict Resolution in Criminal Matter and Their Efficacy in the Chihuahua State. In S. Barbugiani, & L. Henrique (Eds.), *Studies in Homage to the 800 Years of the University of Salamanca, Mediation and Arbitration in the Public and Private Scope* (pp. 11-128). Lumen Juris.

Cobos Campos, A. P., Chacón Rodríguez, J. L., González Cobos, C. P. et al. (2018). Alternative Means of Conflict Resolution and Their Relationship with Reparatory Agreements in Criminal Matters: A New form of Access to Justice. *Legal Space Journal of Law, 19,* 333-352. https://periodicos.unoesc.edu.br/espacojuridico/article/view/15116

Colombo Campbell, J. (2002). *Functions of Constitutional Procedural Law.* Virtual Legal Library of the Legal Research Institute of the National Autonomous University of Mexico. https://revistas-colaboracion.Juridicas.unam.mx/index.php/anuario-derecho-constitucional/article/viewFile/3555/3322

Constituent Congress of 1917 (1917). *Political Constitution of the United Mexican States.* The Official Gazette of the Federation. https://www.scjn.gob.mx/sites/default/files/cpeum/documento/cpeum.pdf

Córdoba Sánchez, C. A. (2017). *Why Is the New Criminal Justice System Being Blamed for the Rise in Public Insecurity?* Nexos. https://eljuegodelacorte.nexos.com.mx/por-que-se-culpa-al-nuevo-sistema-de-justicia-penal-del-alza-en-la-inseguridad-publica/

Córdova Vianello, L. (2007). Guarantee. *El Universal Newspaper.* http://www.eluniversal.com.mx/editoriales/38951.html

Correa Freitas, R. (2022). *Panorama of the Current Constitutional Process Law.* https://dialnet.unirioja.es/descarga/articulo/8543857.pdf

De Miguel y Alonso, C. (2010). *The Principle of Immediacy within the Formal System of Orality.* http://www.juridicas.unam.mx/publica/librev/rev/boletin/cont/24/art/art12.pdf

Ferrajoli, L. (1995). *Law and Reason, Criminal Surety Theory.* Ed. Trotta.

Ferrajoli, L. (2001). *The Foundations of Fundamental Rights* (4th ed.). Ed. Trotta.

Fix Zamudio, H. (1999). *Legal Protection of Human Rights: Comparative Studies* (2nd ed.). CNDH Collection.

Galindo López, C. A., & Ramírez Hernández, S. (2016). *Criminal Justice Reform from the Silence of the Files to Oral and Public Trials, Senate of the Republic, Belisario Domínguez Institute, Series: Structural Reforms: Advances and Challenges, Number: 1, Mexico.* http://bibliodigitalibd.senado.gob.mx/bitstream/handle/123456789/3401/PE-NAL.pdf?sequence=3&isAllowed=y

Gascón, A. M. (2001). The General Theory of Guarantee Regarding the Work of L. Ferrajoli "Law and Reason". *Yearbook of the Department of Law of the Universidad Iberoamericana de Mexico, No. 31,* 195-215.

Gracia Martín, L. (2005). *The Horizon of Finalism and the Criminal Law of the Enemy.* Tirant lo Blanch Editors.

Hinojosa, G., & Meyer, M. (2019). *The Rule of Law in Mexico: 11 Years after the Criminal Justice Reforms. Challenges and Opportunities for the López Obrador Government.* https://www.wola.org/wp-content/uploads/2019/11/WEB-JUSTICE-REFORMS-REPORT-SPN.pdf

INEGI (2025). *National Survey of Urban Public Security (ENSU).* https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2025/ensu/ENSU20205_01_RR.pdf

Inter-American Commission on Human Rights (2013). *Report on the Use of Pretrial Detention in the Americas.* http://www.oas.org/es/cidh/ppl/informes/pdfs/Informe-PP-2013-es.p

Inter-American Court of Human Rights (2001). *Olmedo Bustos vs. Chile Case.* https://www.corteidh.or.cr/docs/casos/articulos/Seriec_73_esp.pdf

Inter-American Court of Human Rights (2009). *Case of González et al. ("Cotton Field") v. Mexico.* https://www.corteidh.or.cr/docs/casos/articulos/seriec_205_esp.pdf

Inter-American Court of Human Rights (2023). *Case of Cajahuanca Vásquez vs. Peru.* https://www.corteidh.or.cr/docs/casos/articulos/seriec_509_esp.pdf

Inter-American Court of Human Rights (2024a). *Case of Adolescents Held in Detention Centers and Provisional Internment of the National Service for Minors (SENAME) vs. Chile.* https://www.corteidh.or.cr/docs/casos/articulos/resumen_547_esp.pdf

Inter-American Court of Human Rights (2024b). *Case of Aguas Acosta et al. vs. Ecuador.* https://jurisprudencia.corteidh.or.cr/es/vid/1056080831

Inter-American Court of Human Rights (2024c). *Case of Patricia Emilie Cuéllar Sandoval, Mauricio Cuéllar Sandoval and Julia Orbelina Pérez vs. El Salvador.* https://corteidh.or.cr/docs/casos/articulos/seriec_521_esp.pdf

Inter-American Court of Human Rights (2024d). *Case of Pérez Lucas et al. vs. Guatemala, Judgment of September 4, 2024.* https://jurisprudencia.corteidh.or.cr/serie-c/sentencia/1049684929

Kelsen, H. (1974). *The Jurisdictional Guarantee of the Constitution (Constitutional Justice)* (Translated by R. Tamayo Salmorán).

Lorca Navarrete, A. M. (2003). Procedural law as a System of Guarantees. *Mexican Bulletin of Comparative Law, New Series, Year XXVI, No. 107,* 531-557.

Manresa y Navarro, J. M. (1955). *Comments on the Law of Civil Procedure* (7th ed.). Reus.

Novoa, M. (2019). *Signs of Setbacks in Criminal Justice.* El Sol de Mexico. https://oem.com.mx/elsoldemexico/analisis/senales-de-retroceso-en-la-justicia-penal-16729540

Office of the United Nations High Commissioner for Human Rights in Mexico (2003). *Diagnosis of the Human Rights Situation in Mexico.* https://hchr.org.mx/wp/wp-content/themes/hchr/images/doc_pub/8diagnosticocompleto.pdf

Pasarello, G. et al. (1998). *Interview with Luigi Ferrajoli.* ISONOMÍA, No. 9, Madrid. http://www.cervantesvirtual.com/servlet/SirveObras/12504985356703728543657/isonomia09/isonomia09_12.pdf

Rafecas, D. E. (2025). *An Approach to the Concept of Criminal Guarantee* (p. 160). University of Buenos Aires, Magazine No, 80. http://www.derecho.uba.ar/publications/lye/revistas/80/una-aproximacion-al-concepto-de-garantismo-penal.pdf

Rentería Díaz, A., & Guillén Rivero, R. (2022). *The Principles of Guaranteeism Criminal System.* IIJ/UNAM. https://archivos.juridicas.unam.mx/www/bjv/libros/14/6675/7.pdf

Rivero Evia, J. (2016). *Assurance or Guarantee? The Criminal Law of the Enemy in the Mexican Constitution* (pp. 253-289). Magazine of the Institute of the Federal Judicature. http://www.ijf.cjf.gob.mx/publicaciones/revista/27/14%20%C2%BFAseguramiento_Revista%20Judicatura.pdf

Ruiz Vargas, O., & Rosales, C. M. (2024). *Presumption of Innocence and Imprisonment Ex Officio Preventive in Mexico.* Congress of Mexico City, II Legislature. https://www.congresocdmx.gob.mx/media/banners/331.pdf

Supreme Court of Justice of the Nation (2023). Exoficcial Preventive Prison. Article 167 of the National Code of Criminal Procedures in the Portion that Regulates It Is Unconventional, in Accordance with the Sentence Issued by the Interamerican Court of Human Rights in the Case of Garcia Rodriguez and Another vs. Mexico. *Official Gazette of the Judicial Weekly of the Federation, 5,* 4694. https://sjf2.scjn.gob.mx/detalle/tesis/2027539

UN (2024). *Mexico: UN Human Rights Chief Concerned about Expansion of Mandatory Pretrial Detention 22 November.* Office of the High Commissioner for Human Rights.

Appendix

Decree 118 which reforms various provisions of the Penal Code for the state of Nuevo León and the Code of Criminal Procedures of the state of Nuevo León, POE volume CXLI Monterrey, Nuevo León, Wednesday, July 28, 2004 NUM. 96 recovered on February 15, 2025 from https://sistec.nl.gob.mx/Transparencia_2015/Archivos/AC-F0107-04-C0100425-01.pdf.

In this regard see: Farias Calderón, Ana Gabriela, "Balance of rights in two penal reforms". *Issues Constitutional*, Mexico City, No. 26, pp. 108-121, June of 2012, recovered from.

Penal Code of the state of Chihuahua, article added by Decree No. 1016-10 VII P.E. published in the Official State Newspaper No. 9 of January 30, 2010.

Article 16 of the Political Constitution of the United Mexican States, reform published in the Official Gazette of the Federation on June 18, 2008.

Article 20 of the Political Constitution of the United Mexican States, reform published in the Official Gazette of the Federation on June 18, 2008.