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[Exclusive Interviews](#)

[Hemispheric Updates](#)

[News & Views](#)

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[Papers & Reports](#)

[Viewpoints Americas](#)

[Weekly Roundup](#)

Program Materials

[Program Summaries](#)

[Speeches](#)

On the Record

[Articles & Op-Eds](#)

[Congressional Testimony](#)

[Congressional Updates](#)

Multimedia

[Podcasts](#)

[Webcasts](#)

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[Press Releases](#)

Mexico Revamps Its Judicial System

Carlos Macias
June 19, 2008

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President Calderón signs the judicial reform at Palacio Nacional in Mexico City.

Earlier this week, Mexican President Felipe Calderón **signed** a constitutional **amendment** designed to reform his country's antiquated judicial system. Experts hail the reform as a major step forward in terms of rule of law in Mexico; new laws guarantee presumption of innocence, public and oral trials, and access to qualified defense lawyers.

Under prior law, those accused of a crime are presumed guilty in Mexico.

With the reform, an investigation will precede detention and defendants are considered **innocent** until proven otherwise. Representative César Camacho, a strong supporter of the reform before Mexico's Congress, argued that—according to the previous law—the country's judicial system had become taxed; roughly 90,000 suspects **remain incarcerated** without a formal sentence. The reform also changes the manner in which trials will be conducted, replacing closed-door hearings with U.S.-style public and oral trials in an effort to ensure transparency and the opportunity to fair legal representation. Such changes **require** training for judges and court employees, as well as a complete physical makeover of the courts to accommodate the new proceedings style.

The judicial reform **evolved** from a proposal by Calderón that aimed to combat organized crime. Under the initial proposal, police and security forces could conduct raids and home searches without a permit from a judge under the assumption of illicit activities. As part of efforts to widen the reform, Congress vested municipal and state agencies with the authority to fight organized crime—a task previously in the hands of the federal government.

But even as the reform seeks to create a more transparent, fair judiciary, it is not free of controversy. A provision known as *arraigo* allows detention of organized crime suspects for up to 80 days without formal charges. The measure sparked an outcry from human rights organizations. Human Rights Watch **describes** the detention period as “the longest of its kind in any Western democracy,” and that it violates “protections against arbitrary detention enshrined in international law.”

Another challenge rests in the need to **reeducate** career lawyers and revamp law school curriculums to reflect systemic change, as well as to strengthen forensic investigation agencies. The next step for the reform package rests with state legislatures, who must

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ratify and enforce the measure. Implementation is expected to be gradual with a deadline for the new rules to be fully operational nationwide by 2016.

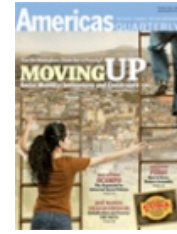
Mexico may be able to draw some insight from the experience with judicial reform in Colombia, where new laws were **implemented** in 2005 and **national coverage** achieved in December 2007. An **academic study** conducted after the reform's first year in place showed an improvement in the number of cases processed by the courts. The survey also argues that without the proper academic, technical, and forensic tools, courts may not administer justice effectively and may perpetuate impunity. However, Colombian authorities **reported** positive results in the legal system's performance: In 2007, courts processed more than 2.7 million cases across nearly the entire country.

Read AS/COA's Rule of Law Working Group **report**, which discusses how to improve and strengthen the rule of law in the Americas.

Send questions and comments for the editor to:
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