

Suprema Corte
de Justicia de la Nación

SUPREME COURT OF MEXICO

A visitor's guide

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I. The Federal Judicial Branch

Mexico is a federal, representative, and democratic republic, whose government is divided into three separate branches: the legislative, executive and judicial branches. No individual or corporation may represent two or more of these branches, nor may legislative authority be vested in any one individual.

The federal judicial power is vested in a Supreme Court, in an Electoral Tribunal in circuit courts, and in district courts. The administration, oversight, discipline, and career of the judicial branch—with the exception of the Supreme Court ant the Electoral Court—are the responsibility of the Federal Judicial Council, which is also entrusted to ensure the autonomy of the organs of the judicial branch and the independence and impartiality of its members. It is composed of seven counselors and presided by the Chief Justice of the Supreme Court. The Federal Judicial Council sits in plenary session or in commissions (Article 100 of the Constitution).

Ir should be noted that Mexico is part of the Inter-American system for the protection of human rights. As such, Mexico has reaffirmed this standing in three key moments. The first was the ratification of the American Convention on Human Rights on March, 2nd 1981[6]. The second moment was the recognition of the competence of the Inter-American Court of Human Rights in 1988[7]. Finally, on September 3rd, 2013, the Supreme Court of Mexico determined that the jurisprudence of the Inter-American Court of Human Rights is binding for all Mexican judges, provided that it is more favorable for the persons involved in the trial. This includes all of the judgements issued by the Inter-American Court, even in cases in which Mexico was not a party to the litigation.

[1] https://www.cidh.oas.org/Basicos/Basicos3.htm

[2] http://www.oas.org/OASpage/press2002/sp/A%C3%-B1o98/121698.htm

II. The Supreme Court of Mexico

a. History

The Supreme Court is the highest court in the country. Its main function is to defend the Federal Constitution and protect human rights. The first predecessor of the Supreme Court can be traced back to the War of Independence and the ensuing Constitution of Apatzingan of October 22nd, 1814. This Constitution created a Supreme Court with five justices appointed by Congress for a three-year term.

The Constitution of 1824 established that the Supreme Court would have three chambers and that it would be composed of eleven justices and a prosecutor. The justices were appointed for life by the state legislatures.

Subsequently, on May 30th, 1853, the Justice Administration Act was enacted, which added four supernumerary justices to the Court, appointed by the President of the Republic. On November 23rd, 1855 the organizational structure of the Supreme Court was transformed to be composed of two prosecutors, nine justices and five substitute justices. Then, by Decree of April 25th, 1856, four supernumerary justices were added.

In 1857 a new Constitution was enacted that changed the Court's composition once more. From then on, it was composed of eleven numerary justices, four supernumerary justices, a prosecutor and a general attorney. The justices were elected for a six-year term through indirect elections. With the constitutional amendment of May 22nd, 1900 the court was named the Nation's Supreme Court and its composition changed to fifteen justices.



Justices of the First Supreme Court
From left to right: Enrique M. de los Ríos (Chief Justice), Victoriano Pimentel, Manuel E. Cruz, Enrique Moreno, Enrique García Parra, Agustín Urdapilleta, Ignacio Martínez Alomía, Enrique Colunga, José María Truchuelo, Alberto M. González, Agustín del Valle.

After the Mexican Revolution and the promulgation of the Constitution of 1917, the method for the appointment of justices changed. Candidates were nominated by the state legislatures and appointed by Congress. A composition of eleven justices was adopted once more. In 1928 the Constitution was amended and it was established that the Mexican Supreme Court would sit in full court or in chambers. Thus, three chambers composed of five justices each were created and the number of justices increased to sixteen. In 1934 the number of justices rose up to twenty one and a fourth chamber was created. In 1950 the composition of the Mexican Supreme Court changed again to add five supernumerary justices that would not take part in the full court.

The last relevant constitutional amendment for the Mexican Supreme Court was published on December 31st, 1994. The composition of the Mexican Supreme Court, the number of chambers, the term of appointment, and the appointment method changed. Currently, the Mexican Supreme Court sits in full court and two chambers and is comprised of eleven justices appointed for a fifteen-year term. The justices are appointed by the senate from a slate of three candidates proposed by the President of the Republic. The Chief Justice is selected by peer vote to serve a four-year term.

b. The Supreme Court Building

On May 13th, 1929, the Ministry of Communications and Public Works held an architecture competition for the construction of the venue of the Mexican Supreme Court. The winning project was presented by Antonio Muñoz García, a graduate from the San Carlos Academy and president of the College of Architects and the Society of Mexican Architects.

On February 23rd, 1936 the construction work began in the place known as the Flying Man Square. Five years later, on June 2nd, 1941 this magnificent architectural work was inaugurated in the presence of the President of Mexico, Manuel Ávila Camacho and the justices of the Supreme Court including its Chief Justice, Salvador Urbina y Frías.



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Construction of the venue of the Mexican Supreme Court



The building that houses the Supreme Court is considered as National Heritage. The venue is a rectangular building with three floors and four large patios. It has a steel and reinforced concrete structure and its inner and outer lining is made of carved quarry.

The front door was made by the sculptor Ernesto Tamariz, founding teacher of the Mexican School of Sculpture. It is made of four high-relief squares in the *art decó* style and it portrays different historical stages of Mexico.



In the upper left part of the door, there is a scene called *The evangelization during the XVI Century* that portrays the encounter between two cultures. On one side, it shows a friar with a crucifix on his chest with one of his hands extended towards the head of a Spanish soldier while the other hand is reaching for the head of an indigenous person. On the left side of the soldier, there is a shield with a crowned tower and behind it is shown a vessel that represents the discovery of America. On the right side of the indigenous persona, a fractured pre-Hispanic idol appears, which symbolizes the destruction brought about by the Spanish conquerors.



In the bottom left part of the door, there is a relieve known as The Federalist Republic. In this section, the Motherland appears represented as a woman sitting on a throne wearing a Phrygian cap, which is a symbol of freedom. On her sides, there are an indigenous man and a mother with her child; in her front, there is the national eagle devouring a snake. On her right side, there is a military man that is making an oath, and on the left side, there is a gentleman that holds a writing quill and a book dated 1824 which refers to the first Federal Constitution of Mexico.



In the upper right part of the door, the scene known as The Reform is shown. The Motherland appears once again in the shape of a woman wearing a Phrygian cap. She is holding with her right hand a book with the year 1857 engraved, which is the year that the second Federal Constitution was issued. On her right side, former President Benito Juárez is shown holding a flag, and on his right side, there is an armed man with a spear dressed as a chinaco[6], which represents the warrior people in the Mexican War of Independence.



Finally, at the bottom right section of the main entrance door, there is a scene called Modern and institutional Mexico that represents the after-period of the Mexican Revolution of 1910. In this scene, Motherland is shown protecting a laborer and a farmer with her extender arms while her cloak shelters a mother with her child in her arms and a revolutionary man.



[3] Name given to the Mexican liberal partisans during the War of Independence.



In the main staircase, there are two majestic bronze statutes that were also made by Ernesto Tamariz in 1943. On one side, there is the statue of Ignacio Luis Vallarta, one of the most remarkable Mexican constitutionalists and who was Chief Justice of the Supreme Court from 1877 to 1882. On the other side, there is the statue of Mariano Otero, who established the amparo trial in the Federal Constitution of May 18th, 1847.

On the third level foyer, there is a statue of Manuel Crescencio Rejón, who is considered the father of the *amparo* trial. The sculpture was made by Carlos Bracho, a sculptor from Veracruz who was also a member of the group of nationalist artistic movement of the 30s.

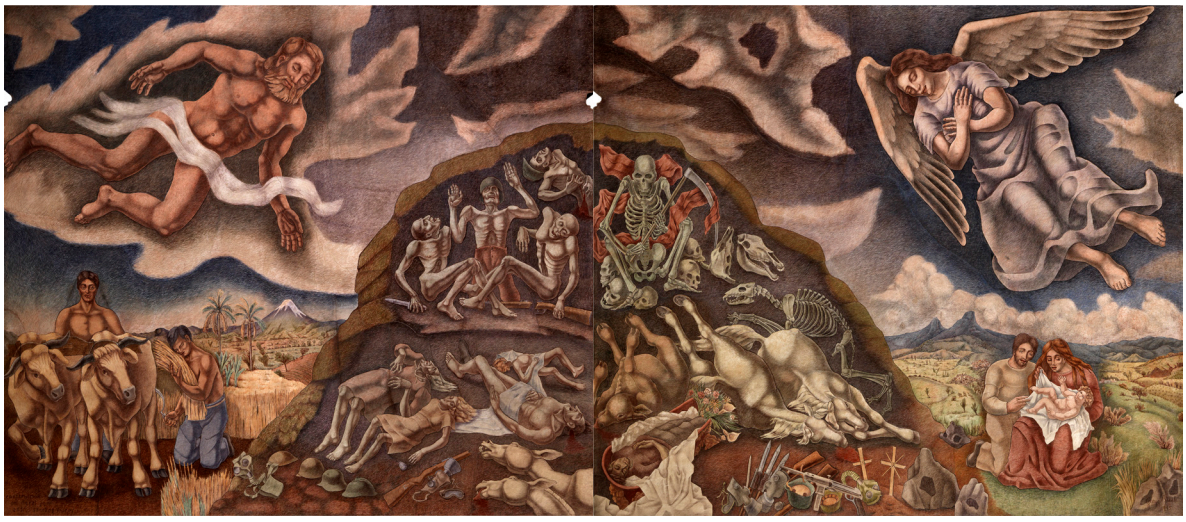
Several murals that displays the cultural, social and legal history of Mexico cover the inner walls of the building. The murals, statues, and paintings that are placed in this High Court demonstrate the commitment with the freedom of expression, art and culture that it has since 1941. A brief description of the artistic works in this venue will be shown below.





José Clemente Orozco, *The National Wealth*

José Clemente Orozco, a world-renowned painter, was the first to paint a mural in the venue of the Supreme Court in 1941. His work is located in an honored place because it is in the Mural's Hall, which next to the Full Court Chamber. This particular work of Orozco belongs to the second phase of his artistic life, in which more realistic figures with a high expressive capacity can be appreciated. He used the expressionist style to show the Mexican historic situation. The black and grey shades are highlighted to represent the dark side of humanity and public institutions. In the Mural's Hall, there are four murals by Orozco: *The National Wealth, The Social Labor Movement, The Justice of Men and The metaphysical Justice*.



George Biddle, *The war and peace*

Afterward, American painter, muralist, and lithographer George Biddle was invited by then secretary of Public Education in Mexico, Jaime Torres Bodet, to paint a mural in the Mexican Supreme Court, which Biddle did in 1945. On the north side of the second foyer, there is the mural titled The War and Peace, where Biddle highlights the existence of two opposite worlds: the world of life that happens in times of peace, and the world of death that arises in wartimes.



Héctor García, ***Genesis; Birth of a nation. Origins of the creation of the Nation's Supreme Court of Justice***

In 2004, Héctor García finished the artwork titled *Genesis; Birth of a nation. Origins of the creation of the Nation's Supreme Court of Justice,* located on the first floor of the venue. This masterpiece is divided into three sections, on the left side –between a storm and light infiltrations- José María Morelos emits a cry beckoning for the fight of independence. A crowd appears behind him that rises from the shadows to answer his call. In the central section, García painted a flying eagle holding the symbols of justice in its claws. Under the eagle, important historical figures of Mexico are depicted: José María Morelos y Pavón, Miguel Domínguez (Chief Justice of the Supreme Court in 1824), Manuel de la Peña y Peña (Chief Justice during the U.S. invasion in 1847), Ignacio Ramírez, José María Iglesias, Benito Juárez, Sebastián Lerdo de Tejada, Ignacio L. Vallarta (delegates of the Constituent Congress of 1857), and finally, Venustiano Carranza (who issued the 1917 Constitution).

In the last section located on the right side, García shows the Independence of Mexico starring Miguel Hidalgo and the *Pípila*, a national hero in the Independence that did not hesitate to carry a long, flat stone tied to his back to protect him from the muskets of the Spanish troops.

In 2004, former Chief Justice Mariano Azuela Güitrón presented a proposal for another four murals to be painted along the stairways on the sides of the building. For this project, Luis Nishizsawa, Leopoldo Flores, Ismael Ramos and Rafael Cauduro were chosen. In 2007, Chief Justice Guillermo Ortiz Mayagoitia commissioned Santiago Carbonell, to paint a mural on the third floor of the venue.

Today, the powerful murals of these artists are spread in over a thousand and five hundred square meters of the venue, recounting the Mexican social and legal history.



Rafael Cauduro, ***Repression***



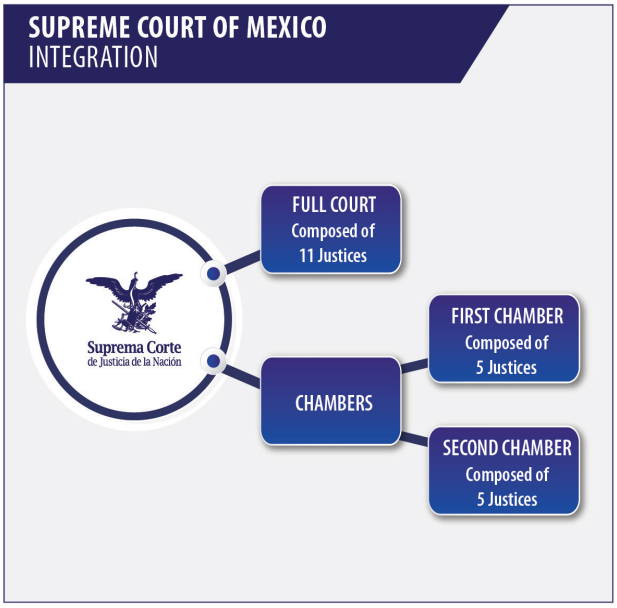
Full Court of the Supreme Court of Mexico
From left to right: Justice Alberto Pérez Dayán, Justice Javier Laynez Potisek, Justice Eduardo Tomás Medina Mora Icaza, Justice Norma Lucía Piña Hernández, Justice Jorge Mario Pardo Rebolledo, Chief Justice Arturo Zaldívar Lelo de Larrea, Justice Luis María Aguilar Morales, Justice José Fernando Franco González Salas, Justice Yasmín Esquivel Mossa, Justice Juan Luis González Alcántara Carrancá, Justice Alfredo Gutiérrez Ortiz Mena.

c. The integration

The Supreme Court is composed of eleven Justices with one being the Chief Justice. It sits in Full Court or in Chambers.

The Full Court is presided over by the Chief Justice. Judgements may be rendered unanimously or by a majority vote. Seven members of the Court constitute a quorum. The sessions of the Full Court are held on Mondays, Tuesdays and Thursdays[4].

The Supreme Court has two chambers. The First Chamber deals with cases regarding civil and criminal law, while the Second Chamber solves cases regarding labor and administrative law. Each one is composed of five justices, with four of them constituting a quorum. The Chief Justice does not participate in the chambers sessions, which take place on Wednesdays[5].



[4] The Full Court sessions of the Supreme Court of Mexico are public and can be seen live via internet on the following link: https://www.scjn.gob.mx/transmision-en-vivo.

[5] The stenographic versions of the First Chamber sessions can be consulted here: https://www.scjn.gob.mx/primera-sala/versiones-taquigraficas; and the Second Chamber sessions can be seen here: https://www.scjn.gob.mx/segunda-sala/versiones-taquigraficas

d. Jurisdiction

The Supreme Court is the head and the court of last resort in the judicial branch. Its main role is the defense of the Mexican Constitution and the protection of human rights through constitutional review. The Supreme Court can only exercise its jurisdictional power upon aggrieved party's request.

Amparo trial: is a form of constitutional review and the only jurisdictional procedure available to defend citizens from human rights violations, although authorities can promote it in special situations. It is used to declare laws, acts and omissions of the authority unconstitutional. A judicial review called revision appeal may be brought against the amparo judgment.

There are two types of *amparo*:

i. Direct *amparo*: It proceeds against final judgments, labor awards and resolutions that end the trial.

ii. Indirect *amparo*: It is enforceable against laws and any other acts of authority that are not judgments or rulings that end the trial.

The Supreme Court has the jurisdiction to solve the *direct amparo's* review. The requirements of procedure of this review are the persistence of a constitutionality problem and the transcendence of the criterion that will guide the solution of that problem. The Supreme Court can declare its own jurisdiction in order to solve direct amparo trials as a Court of First Instance and the direct *amparo's* review. Article 107 of the Mexican Constitution provides that at the request of either a Circuit Court, the Attorney General, the President´s Counsel, or by its own motion, the Supreme Court can solve direct amparo procedures because of their relevance and transcendence.

The amparo judgements only benefit the complainants and only protects them strictly against the challenged act or law.

It is important to emphasize that in the case of *indirect amparo's* review there is an exception to the limited protection of the parties. Article 107 of the Mexican Constitution provides that the Full Court, by a majority of eight votes, may expel a norm from the legal system through the *General Declaration of Unconstitutionality*. When the Chambers or the Full Court declare in an *indirect amparo's* review that a norm is unconstitutional for a second time, the Supreme Court must inform to the issuing authority of the norm of the existence of the unconstitutionality problem.

Later, if the Chambers or the Full Court set case law by five consecutive and uninterrupted decisions, the Supreme Court, once again, will inform the issuing authority of the norm in order to amend the unconstitutional part of the norm within ninety days.

If the unconstitutionality problem persists and it is not solved, the Full Court, with the vote of eight of its members, will expel the norm from the Mexican legal system. If it is a criminal norm, it may have retroactive effects. It must be noted that this procedure is not applicable to norms involving tax matters.

Constitutional controversies: these are brought against acts or norms that encroach: (i) on the competences of the executive and legislative branches of the federal and government; (ii) on the competences of the legislative, executive and judicial branches of the states´s governments; (iii) on states'autority; (iv) on the autonomy of municipalities, or (v) on the competences of independent agencies established by the Constitution.

The effects of the constitutional controversies'judgments vary depending on whether it was an act, an omission or a general norm that was challenged. If it is an act, the effects consist in its invalidation and the return of all things to the state they kept before the act was issued. If and omission is challenged, the effects consist in ordering the responsible authority to fulfill its forsaken obligation. Finally, if a norm is challenged, the Supreme Court can either

declare its invalidation with overall effects, provided that eight justices vote for the unconstitutionality, or with effects regarding only the particular case, depending on the type of norm.

Actions of Unconstitutionality **(abstract constitutional review):** these can only be promoted by legitimated authorities such as the President of the Republic, the Attorney General, the National Human Rights Commission, and parliamentary minorities, among others.

In this procedure of constitutional review, the legitimated authorities challenge the constitutionality of federal and local laws or general norms. In this procedure, the Supreme Court makes an abstract analysis of the constitutionality of the challenged norm.

The norm will be expelled of the Mexican legal system if eight justices vote to declare its unconstitutionality, otherwise the procedure will be dismissed. On the other hand, only a simple majority is necessary for the declaration of validity of the norm.

e. Jurisprudencia

In Mexico, *jurisprudencia* is the array of principles, arguments, and criteria that judges are bound to use to interpret the law. It is considered as one of the sources of law[6]. The Supreme Court, working as in the Full Court or in Chambers, as well as some of the lower federal courts can set *jurisprudencia*.

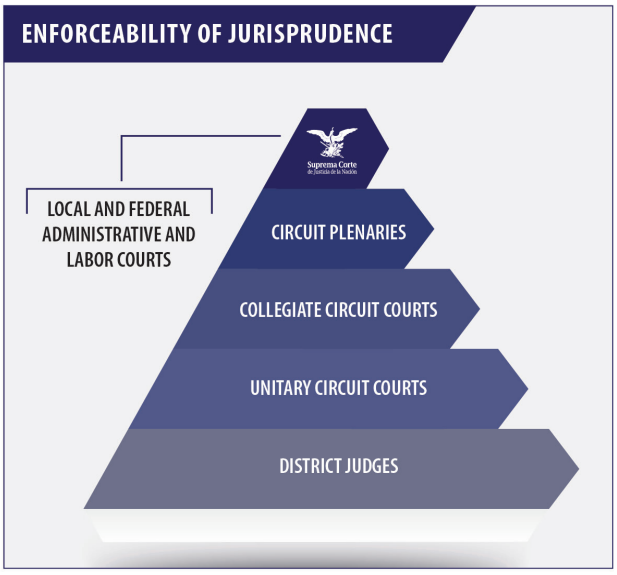
There are three ways in which *Jurisprudencia* can be created: through reiteration of criteria, through the resolution of contradictory criteria and through de substitution of previous *jurisprudencia*.

Jurisprudencia through reiteration requires that the Supreme Court, or the other federal courts authorized to set *jurisprudencia*, uphold the same point of law in five consecutive judgements. It is important to highlight that each one of these separate criteria is considered a precedent and it is a non-binding guiding criterion.

Jurisprudencia through the resolution of contradictory criteria is set when the Supreme Court settles an interpretive contradiction between the Chambers of the Supreme Court or between collegiate circuit courts.

Finally, *jurisprudencia* can be created through substitution or modification, when existing binding decisions by reiteration or by resolution of contradictory criteria are replaced at the founded request of one of the members of the court, after a case is solved in terms of the existing binding decision.

The enforceability of *jurisprudencia* depends on the Court that issued it. That issued by the Full Court or the Chambers of the Supreme Court is binding for the multi-member and single-members circuit courts and the district courts, as well as for local and federal administrative and labor courts.



[6] https://www.scjn.gob.mx/conoce-la-corte/que-hace-la-scjn

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