



NEW YORK
CITY BAR

**SECOND STATEMENT CONDEMNING THE MEXICAN PRESIDENT'S ATTACKS
ON JUDICIAL INDEPENDENCE**

April 24, 2023

The New York City Bar Association¹ (City Bar) continues to be gravely concerned with the ongoing pattern of attacks on the independence of Mexico's judiciary.

Since August 1, 2022, when the City Bar issued its last statement on Mexico,² President Andrés Manuel López Obrador (President López Obrador) has intensified his attacks on Mexico's judiciary, concentrating in recent months on Mexico's first woman president of the Supreme Court of Justice, Norma Piña.³ These ongoing assaults compromise the judiciary's autonomy and jeopardize the rule of law in Mexico.⁴

I. Background

On August 1, 2022, the City Bar condemned President López Obrador's remarks about opening investigations of judges who have issued decisions contrary to the government's interest, as such investigations (and/or threats of investigation) interfere with judicial independence. The City Bar urged the Mexican government to respect judicial independence in accordance with international law and Mexico's international commitments.⁵ In that statement, the City Bar noted that President López Obrador violated the United Nations Basic Principles on the Independence of the Judiciary and the American Convention on Human Rights because "such conduct directly

¹ The New York City Bar Association (City Bar), founded in 1870, is an organization of over 23,000 members in New York City and elsewhere throughout the United States and in more than 50 countries around the globe. Its members include judges, prosecutors, defense counsel, government lawyers, and public interest/non-governmental organization practitioners, as well as legal academics and attorneys representing nearly every major law firm and corporation in the United States. The City Bar has a long and distinguished history of promoting the rule of law and human rights, including the rights of legal professionals to fulfill their professional obligations. The Cyrus R. Vance Center for International Justice assisted with this Statement, with support from the City Bar's Task Force on the Independence of Lawyers and Judges and the Inter-American Affairs Committee.

² The City Bar, *Statement Condemning the Mexican President's Remarks Announcing the Investigation of Judges for Their Decisions*. Aug. 01, 2022. <https://www.nycbar.org/media-listing/media/detail/condemning-mexican-presidents-investigation-of-judges> (all links last accessed on April 21, 2023).

³ Cristopher Cruz, *Tras ataques en su contra, Norma Piña advirtió que son "tiempos difíciles" para los juzgadores* Infobae, Mar. 05, 2023. <https://www.infobae.com/mexico/2023/03/05/tras-ataques-en-su-contra-norma-pina-advirtio-que-son-tiempos-dificiles-para-los-juzgadores/>

⁴ *Id.*

⁵ The City Bar, *Statement Condemning the Mexican President's Remarks Announcing the Investigation of Judges for Their Decisions*. Aug. 01, 2023. <https://www.nycbar.org/media-listing/media/detail/condemning-mexican-presidents-investigation-of-judges>

undermines the respect and independence of the judiciary and intimidates the judges involved and deters them from independently carrying out their judicial duties.”⁶

Recently, President López Obrador has continued and intensified these criticisms by launching a series of attacks on the new Supreme Court of Justice president, Justice Piña.⁷

On January 20, 2023, President López Obrador claimed that the judiciary “is [...] of the old regime with many vices and a lot of corruption.”⁸

Six days later, on January 26, 2023, President López Obrador directed comments specifically at Justice Piña, asserting that if she wishes to end corruption, she should start with a “clean-up” of the judiciary.⁹ Among other things, President López Obrador contends, with no further explanation, that there has been an increase in judicial decisions against the “public interest” since Justice Piña became president of the Supreme Court. His reference to “public interest” is apparently shorthand for matters directly related to government policies that judges have suspended for violating constitutional or other legal principles.

On March 1, 2023, President López Obrador claimed that Justice Piña’s recent ascension to the post of President of the Court unleashed a wave of rulings “in favor of criminals.”¹⁰

And on the very next day, March 2, 2023, President López Obrador leveraged these attacks, stating “there is no doubt that corruption exists within the judiciary, making it urgent to implement reforms to combat it.”¹¹ Among other things, President López Obrador cited the Court’s decision to unfreeze the bank accounts of the wife of Genaro García Luna¹² and to cancel

⁶ *Id.*

⁷ *La Corte elige a Norma Piña como su nueva presidenta; es la primera mujer que encabeza el Poder Judicial.* Animal político, Jan. 2, 2023. <https://www.animalpolitico.com/politica/corte-norma-pina-nueva-presidenta>

⁸ Pedro Villa y Caña, “Tras designación de la ministra Norma Piña en la Corte aumentaron actos ilegales e injustos”, *acusa AMLO.* El Universal, Jan. 20, 2023. <https://www.eluniversal.com.mx/nacion/amlo-tras-designacion-de-la-ministra-norma-pina-en-la-corte-aumentaron-actos-ilegales-e-injustos/>

⁹ A. Baranda and C. Guerrero, *Si Corte quiere atacar corrupción, que empiece por PJ.* Reforma, Jan. 26, 2023. <https://www.reforma.com/si-corte-quiere-atacar-corrupcion-que-empiece-por-pj/ar2542396>

¹⁰ A. Baranda and G. Irizar, *Llegó Piña y se desató ola a favor de delincuentes.* Reforma, Mar. 01, 2023. <https://www.reforma.com/llego-pina-y-se-desato-ola-a-favor-de-delincuentes-amlo/ar2561616>

¹¹ A. Baranda and G. Irizar, *Indudable, corrupción en el Poder Judicial. - AMLO.* Reforma, Mar. 02, 2023. <https://www.reforma.com/indudable-corrupcion-en-el-poder-judicial-amlo/ar2562325>

¹² Former Mexican National Security Secretary Genaro García Luna was recently convicted on drug smuggling charges in the United States. US Department of Justice, *Ex-Mexican Secretary of Public Security Genaro Garcia Luna Convicted of Engaging in a Continuing Criminal Enterprise and Taking Millions in Cash Bribes from the Sinaloa Cartel.* Feb. 21, 2023. <https://www.justice.gov/usao-edny/pr/ex-mexican-secretary-public-security-genaro-garcia-luna-convicted-engaging-continuing>. Although President López Obrador has provided no support for any inference that the decision to unfreeze Garcia Luna’s wife’s bank accounts has anything to do with judicial

a warrant for the arrest of former governor of Tamaulipas, Francisco Javier García Cabeza de Vaca, a known political opponent of the President. After President López Obrador’s statements, posts on social media featured a chilling photo of Justice Piña captioned “The problem,” and an image of a bullet designated as “the solution.”¹³

That same day, the National Association of Judges decried President López Obrador’s statements as hate speech, connecting those statements to the social media posts and stating that the members of the Association “strongly condemn the publication circulating on social media, which incites violence, threatens personal integrity, and severely divides society, as a consequence of hate speech directed towards the functions that constitutionally belong to the Federal Judiciary.”¹⁴

The Mexican Bar Association has similarly urged President Lopez Obrador to show respect in public statements regarding the Federal Judiciary and its members. The Bar Association has emphasized that “[t]o discredit, offend, slander, or make assertions without arguments or evidence about the work of justice providers only weakens our democracy and legal system. Public authorities and members of the different branches of government who disqualify judges, magistrates, and justices undermine the principle of judicial independence.”¹⁵

On March 5, 2023, Justice Piña underscored the responsibility of judges to uphold Mexico’s Constitution, noting that “[Judicial Independence] is our strength, that is our dignity, and at the same time, it is our responsibility... If we act responsibly, with the prudence of judges, without it being confused with cowardice, we will all move forward.”¹⁶

On March 18, 2023, following a rally led by President López Obrador, attendees burned an effigy bearing the face of Justice Piña. Photographs taken at that rally show people kicking the

corruption, he is apparently using Garcia Luna’s tarnished reputation to impute corrupt motives on the part of the judiciary.

¹³ Diana Lastiri, *Tras críticas de AMLO atacan en redes a la ministra Norma Piña*. Proceso, Mar. 02, 2023. <https://www.proceso.com.mx/nacional/2023/3/2/tras-criticas-de-amlo-atacan-en-redes-la-ministra-norma-pina-302975.html>

¹⁴ National Association of Circuit Magistrates and District Judges of the Federal Judiciary, *Declaración al público en general*. Mar. 02, 2023. <https://www.facebook.com/jufed.org/photos/a.119395656264809/742860923918276/?type=3>

¹⁵ Mexican Bar Association statement, Mar. 02, 2023. <https://www.eluniversal.com.mx/nacion/barra-de-abogados-pide-amlo-respeto-tras-sus-expresiones-sin-argumentos-contr-ministra-norma-lucia-pina/>

¹⁶ Cristopher Cruz, *Tras ataques en su contra, Norma Piña advirtió que son “tiempos difíciles” para los juzgadores*. Infobae, Mar. 05, 2023. <https://www.infobae.com/mexico/2023/03/05/tras-ataques-en-su-contr-norma-pina-advirtio-que-son-tiempos-dificiles-para-los-juzgadores/>

figure made of cardboard and fabric and then setting it on fire in the middle of the main square immediately after President López Obrador's speech.¹⁷

On March 20, 2023, Mexico's Federal Judiciary denounced the expressions of "violence and hatred" that had occurred two days earlier against the first woman president of the Supreme Court, calling for "No more acts of hatred. No more gender-based violence. Mexico demands more from us."¹⁸

On March 23, 2023, President López Obrador doubled down on his earlier attacks before calling Mexico's judges "gangsters."¹⁹

On March 26, 2023, President López Obrador's Legal Counsel publicly discredited Justice Javier Laynez Potisek after he ruled as unconstitutional,²⁰ and suspended the effects of, a controversial electoral law promoted by the President.²¹ The statement accused Justice Laynez of "ripping pages out of the Constitution."²²

On March 28, 2023, President López Obrador critiqued recent court rulings against his administration in his morning press conference, asserting that the members of the entity responsible for judicial discipline, even those appointed by him, seem to be under a "spell." He claims they have failed to bring disciplinary action against magistrates, judges, and justices who violate the law.²³

¹⁷ Video *Asistentes a la celebración de 85 aniversario de la expropiación petrolera quemaron una figura gigante con la imagen de la presidenta de la SCJN, Norma Piña*. Infobae, Mar. 19, 2023. <https://cdn.jwplayer.com/previews/JNtltrZs>

¹⁸ Tweet from the Federal Judicial Power. <https://twitter.com/SCJN/status/1637968261143986176?s=20>. Mar. 23, 2023.

¹⁹ A. Baranda and C. Guerrero, *Jueces están maleados, son gánsters, critica AMLO*. Mar. 23, 2023. <https://www.reforma.com/jueces-estan-maleados-son-gangsters-critica-amlo/ar2574788>

²⁰ Justice Laynez ruled that the new law modifying the structure of the National Electoral Institute directly contradicts the text of the Constitution. See also: Stephanie, *Beyond Plan B: Democracy and Checks and Balances in Mexico*. WOLA. Mar. 6, 2023. <https://www.wola.org/analysis/plan-b-democracy-checks-balances-mexico/>

²¹ *Mexico's young democracy teeters on the edge of a cliff*. Washington Post, March 7, 2023. <https://www.washingtonpost.com/opinions/2023/03/07/mexico-democracy-protestst-lopez-obrador-amlo/>

²² Legal Counsel of the Federal Executive, *Para conceder suspensión, ministro Laynez arrancó hojas de la Constitución*. Mar. 26, 2023. <https://www.gob.mx/presidencia/prensa/250878>; Pedro Villa y Caña, "Presidencia arremete contra ministro Laynez por freno a plan B". El Universal, Mar. 27, 2023.

²³ Pedro Domínguez, *AMLO critica que Consejo de la Judicatura "no hace nada, los tienen embrujados"*. Telediario, Mar. 28, 2023. <https://www.telediario.mx/nacional/amlo-critica-que-consejo-de-la-judicatura-no-hace-nada>

On April 19, President López Obrador publicly accused eight justices of “responding to interests of the elites and not the voice of the people” as the Supreme Court struck down his attempt to put the National Guard under military control.²⁴ The United Nations High Commissioner on Human Rights called on the Mexican authorities to act swiftly on the Supreme Court’s ruling and underscored the importance of the independence and separation of powers.²⁵

II. The Mexican President’s Actions Contravene International Law

President López Obrador’s actions violate fundamental principles and standards of international law.²⁶

First, the United Nations Basic Principles on the Independence of the Judiciary. (Basic Principles): The Basic Principles state that all governmental and other institutions must respect and observe the independence of the judiciary (Principle 1)²⁷ to ensure that courts can decide “matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.” (Principle 2).²⁸

Second, the International Covenant on Civil and Political Rights (ICCPR): The ICCPR establishes that everyone is entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law (Article 14).²⁹

²⁴ Associated Press. *Mexico court: National Guard shift to army unconstitutional*. April 18, 2023. <https://apnews.com/article/mexico-national-guard-constitution-civilian-military-8c0be1ed6c6f28d180e2b9f9d8ccbcc5>; Christine Murray and Michael Stott. *Mexico’s leader criticises move to block military control of National Guard*. Financial Times. April 19, 2023. <https://www.ft.com/content/cedc1b80-0991-4eea-9c73-b8203bddd62a>

²⁵ Press Release. Office of the High Commissioner for Human Rights. Comment by UN Human Rights Chief Volker Türk on ruling by Mexico’s Supreme court invalidating transfer of National Guard to military control. April 20, 2023. <https://www.ohchr.org/en/press-releases/2023/04/comment-un-human-rights-chief-volker-turk-ruling-mexicos-supreme-court>

²⁶ Judicial Independence has been recognized as a general principle of law and customary international law by the United Nations General Assembly/Human Rights Council. Report, Promotion, and Protection of All Human Rights – Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development: Report of the Special Rapporteur on the independence of judges and lawyers, A/HRC/11/41. March 24, 2009, paragraph 14.

²⁷ Principle 1. *UN Basic Principles on the Independence of the Judiciary* (1985). <https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>

²⁸ Principle 2. *UN Basic Principles on the Independence of the Judiciary* (1985), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx>

²⁹ Article 14. *International Covenant on Civil and Political Rights* (ICCPR), <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Third, the American Convention on Human Rights (American Convention): Articles 8 and 25 of the American Convention encompass the right to a fair trial and judicial protection. Articles 8 and 25 obligate States bound by the American Convention to guarantee the rights of individuals seeking justice in their respective cases. Under these guidelines, the Inter-American Commission on Human Rights has deemed the independence of the judiciary to be fundamental. Additionally, States are obligated to guarantee that “justice operators” may independently exercise their functions and thus enable the state to fulfill its obligation to provide access to justice for individuals.³⁰

Fourth, the Jurisprudence of the Inter-American Court of Human Rights (Inter-American Court): The jurisprudence of the Inter-American Court emphasizes the importance of an independent judiciary to guarantee the right to a fair trial.³¹ The Inter-American Court has recognized that one of the main objectives of the separation of powers is to guarantee the independence of judges. The purpose of this protection is to prevent the judicial system, and its members, from being subjected to possible undue restrictions in exercising their function by bodies outside the judicial branch.³²

III. The City Bar Calls on Mexican Authorities to Respect Judicial Independence and Urges Action by Relevant International Institutions

For the second time,³³ the City Bar urges President López Obrador to recognize the importance of an independent judiciary for the rule of law and to respect judicial independence consistent with international law and Mexico’s international commitments.

Furthermore, the City Bar calls on the United Nations Special Rapporteur on the Independence of Judges and Lawyers and the Inter-American Commission on Human Rights to issue a joint letter to the Mexican government urging responsible authorities to renew their commitment to the applicable international framework guaranteeing the independence of the judiciary.

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³⁰ CIDH, *Garantías para la independencia de las y los operadores de justicia: Hacia el fortalecimiento del acceso a la justicia y el estado de derecho en las Américas*. p.11. <https://www.oas.org/es/cidh/defensores/docs/pdf/operadores-de-justicia-2013.pdf>

³¹ Inter-American Court of Human Rights, *Cuadernillo de Jurisprudencia de la Corte Interamericana de Derechos Humanos, No. 37, Independencia Judicial*. 2022. <https://bibliotecacorteidh.winkel.la/Product/ViewerProduct/1944#page=0>

³² IACHR. Case Argüelles y otros Vs. Argentina. Preliminary Exceptions, Merits, Reparations, and Costs. Judgment of November 20, 2014. Serie C No. 288 https://www.corteidh.or.cr/docs/casos/articulos/seriec_288_ing.pdf

³³ The City Bar, *Statement Condemning the Mexican President’s Remarks Announcing the Investigation of Judges for Their Decisions*. Aug. 01, 2022. <https://www.nycbar.org/media-listing/media/detail/condemning-mexican-presidents-investigation-of-judges>

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