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Human Rights Commission Resurrects Proposal to Create System of Anonymous Judges

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Mexico’s semi-independent human rights commission (Comisión Nacional de los Derechos Humanos, CNDH) has resurrected a proposal to create a system of anonymous judges (jueces sin rostro), particularly to make decisions on cases involving members of criminal organizations. CNDH president Luis Raúl González Pérez offered the suggestion shortly after the assassination of Judge Vicente Antonio Bermúdez Zacarías, who recently handled cases involving members of the Zetas, Cártel Jalisco Nueva Generación (CJNG), and the Sinaloa cartel (including infamous leader Joaquín “El Chapo” Guzmán).

Murder of federal judge raises alarm

Bermúdez Zacarías, who was the chief judge in the Fifth District Court (Juez Quinto de Distrito en Materias de Amparo y de Juicios Civiles Federales), was shot in the back in broad daylight as he jogged near his home in Metepec, which is just outside the city of Toluca in México state. At the time of his assassination, Bermúdez was presiding over a court that was reviewing 1,553 cases, most of which involved lower-profile individuals. However, over the course of his career, the judge had handled several high-profile cases, including Zetas leader Miguel Ángel Treviño, CJNG head Abigael González Valencia, and Guzmán.

Just this month, Bermúdez was considering an appeal from the lawyers representing Treviño, also known as El Z-40, to prevent the federal government from transferring the Zetas leader to another maximum-security federal penitentiary. Treviño, who was arrested in July 2013 (SourceMex, July 24, 2013), was thought to be planning an escape from El Altiplano penitentiary in México state when he was transferred to a maximum-security facility in Hermosillo. The Zetas leader had spent two years in the Puente Grande penitentiary in Jalisco before being transferred to El Altiplano in 2015.

Bermúdez was also considering a US request for the extradition of González Valencia, known as El Cuini, who is thought to be the financial mastermind behind the CJNG. The CJNG has been fighting for control of western Mexico and is now considered one of the most dangerous criminal organizations in the country (SourceMex, May 13, 2015, and Aug. 17, 2016).

The Bermúdez-led court also put on hold an appeal presented by Gildardo López Astudillo, the leader of the drug cartel Guerreros Unidos that is thought to be responsible for the kidnapping and murder of 43 students from a teachers college (Escuela Normal Rural de Ayotzinapa Raúl Isidro Burgos) in Guerrero state in September 2014 (SourceMex, Oct. 15, 2014).

The federal court presided by Bermúdez was also one of the jurisdictions involved in the tug-of-war over the US request to extradite Guzmán to the US (SourceMex, Feb. 18, 2015, Sept. 9, 2015, June 22, 2016). Mexican authorities expect the extradition to occur by February 2017, but there are rumors that the Sinaloa cartel is trying to intimidate the courts.

José Refugio Rodríguez, an attorney for Guzmán, denied his client had any role in the assassination. “I have heard that he was … very honest, impeccable, and that he was widely respected,” the lawyer
said in an interview with the television network Televisa. “There is no basis to see Joaquín Guzmán behind this act.”

Bermúdez also recently presided over a controversial case that did not involve organized crime. In June of this year, he favored an appeal filed by the indigenous leader and environmentalist Ildefonso Zamora, who had been detained on charges of aggravated robbery that his supporters said were trumped-up charges. At the time of his arrest in 2015, groups like Amnesty International denounced the detention as “part of a series of threats and harassment” in relation to his anti-logging campaign.

“Zamora, an ally of Greenpeace in the defense of the environment since 2004, has been imprisoned unjustly and is facing penal action as part of campaign of repression for his activities to defend land and territory,” Greenpeace México said during the time when Zamora was imprisoned.

**Legislative reforms needed**

Given the high profile of judges like Bermúdez, the CNDH is urging authorities to consider a scheme to implement the system of anonymous judges.

“This is a mechanism that has to be evaluated,” said González Pérez, who acknowledged that a legislative reform would be required to put the system into place. “We have to give judges all types of security so that they can conduct their job with the utmost of impartiality. They are the ones who apply the rule of law.”

Some legislators have stepped up in support of the CNDH proposal, including Sen. Angélica de la Peña of the center-left Partido de la Revolución Democrática (PRD) and Sen. Manuel Cárdenas Fonseca, an independent.

“I don’t think this is a far-fetched idea,” de la Peña said in a brief interview with the media organization Grupo Imagen.

“We definitely need to give greater certainty and personal security to those who perform this judicial task of dealing with organized crime,” Cárdenas Fonseca told Grupo Imagen.

This is not the first time that the idea of anonymous judges has come up in Mexico. In 2005, the Mexican government announced special protections for federal judges and their families after several justices reported having received death threats. The idea of anonymous judges was brought up at that point, with supporters alluding to similar systems in Peru and Colombia ([SourceMex](https://notisur.com/noticia/941113), Aug. 31, 2005).

Former President Felipe Calderón (2006-2012) also proposed the creation of a system of anonymous judges during a meeting with senators on national security, primarily for judges who preside over drug-trafficking trials.

The proposal to create a system of anonymous judges has its critics. The scheme was phased out in Peru in 1997 because it was believed the practice fostered the violation of individual rights of the accused. Critics said the system represented little more than a condemnation machine that would sweep up the guilty and the innocent ([NotiSur](https://notisur.com/noticia/941113), Oct. 10, 1997).

The question of due process also arose when Colombia moved to phase out its system of anonymous judges in 1999 ([NotiSur](https://notisur.com/noticia/941113), June 4, 1999).
Still, there is some pressure to implement a system to provide better protection for judges in Mexico, where 11 judges have been murdered over the past four years, although Bermúdez is the first federal judge targeted in 10 years. The last assassination of a federal magistrate occurred in 2006, when Judge René Hilario Nieto Contreras was killed in Toluca. Fifteen years ago, federal Judges Jesús Alberto Ayala Montenegro and Benito Andrade Ibarra were murdered in the western city of Mazatlán, in Sinaloa.

‘Silver or lead’

The judiciary “lives under a constant siege of criminal interests that look to twist institutional rulings through the classic method of filling the judge with money or lead,” columnist Julio Hernández López wrote in the daily newspaper La Jornada. “To a large extent, the mechanisms of judicial decision-making have been compromised by this mafioso threat that in no way has been confronted and exterminated.”

El Consejo de la Judicatura Federal (CJF), which represents the interests of members of the judiciary, demanded that the federal government and authorities in México conduct prompt investigations to find the perpetrators of the murder. The CJF also sent a letter to nearly 400 federal judges around the country offering reassurances that the organization is implementing greater security measures to protect magistrates.

“I cannot deny that this case has created great concern for all of us,” Justice Luis María Aguilar Morales, president of the Supreme Court (Suprema Corte de Justicia de la Nación, SCJN), wrote on behalf of the CJF. “We have to send a clear message that as members of our country’s judicial power, we remain strong.”

Some observers noted that the threat of violence could cause some judges to lose their independence. “The leaders of the criminal organizations have long applied the principle of ‘silver or lead’ (plata o plomo), by which they try to coerce judges with bribes or threaten them,” columnist Leo Zuckermann wrote in the daily newspaper Excélsior. “I fear that the Mexican government is pushing judges to allow themselves to be bribed by not offering them protection. They have no choice but to grab the ‘silver’ rather than allow themselves to be filled with lead.”

-- End --