

Mexico

The Rule of Law as a legally relevant value in Mexico

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The pervasive presence of the “rule of law” rhetoric in legal and political argument in Mexico has never been higher. At the sunset of the second transition government of the liberal democratic party Acción Nacional (National Action), legal institutions face the starkest contrast in our recent history. On the one hand, a fully operating bureaucracy runs day to day government affairs in 32 federal entities, imposing taxes, making and applying laws for over 112 million people, and speak proudly of our legal institutions – those we have, those we need, those we need to change.

Yet, at the same time, federal, state and municipal authorities face the worst rates of violence and loss of human life in the past 50 years. The formerly called war against drug traffic is the main federal policy to control organized crime (for the discussion on the Mexican war against drugs see [Mexican Drug Traffic](#)). In this context, federal legislation has been amended to grant ever increasing powers to the executive branch in the areas of security, intelligence and criminal procedure - with the consequent encroachment upon individual rights. Since 2009, the Executive has requested Congress to approve national security legislation that would enable federal authorities to support local governments in a situation short of emergency, displaying military and naval forces. This episode of turmoil in Congress has evidenced public and private clashes within the federal cabinet, civil society organizations, and the main political parties. No agreement exists on whether the constitutional order would be subverted if this legislation is approved. Most interestingly for the purposes of this discussion, no agreement exists on whether the rule of law admits installments; and whether a state exists that is neither “business as usual”, nor an emergency in the sense of modern constitutional and international law. Mexican authorities propose the creation of a third option, in the name of the rule of law.

The voices we hear in the Mexican context sound all too familiar ten years after the beginning of the global war on terror. Sadly, the terror discourse in Mexico keeps gaining momentum even after the rhetoric of the war on terror has been publicly condemned, and the mistakes of that strategy continue to be investigated and corrected.

This example of the current Mexican reality is handy to depict what has been sometimes described as lawlessness. The clockwork operation of the formerly unbeatable Partido Revolucionario Institucional gained Mexico the tag of the “perfect dictatorship” in the words of 2010 Nobel Prize win laureate, Mario Vargas Llosa. Today, the failed state doctrine aside, the deepest concern among some scholars and professionals in the fields of justice and human rights in Mexico is a feeling of a never ending political transition. A new ruling party has brought important developments to our legal institutions, but impunity for criminals in and out of government remains rampant (Acosta 2010 provides for a critical description of the implications of political transition and human rights).

Against this backdrop, the inquiry into the meaning of the rule of law in our legal culture is timely and necessary. These paragraphs will attempt to describe the actual content of the “rule of law” as a concept in Mexican legal culture, using the sources of Mexican law.

1. The “rule of law” according to the Federal Legislature and the Executive branch

There is no literal translation of the English term “rule of law” into Spanish. Our choice of words for that purpose necessarily requires a conceptual stipulation. Most likely, we could use the term “*Estado de Derecho*” (“state of law”), at least linguistically akin to the German *Rechtsstaat* – but not identical in meaning. “*Estado de derecho*” is broad enough to speculate about its contents with some freedom, just like we speculate about the components of “rule of law”. To infuse further complexity to an already lively debate, the Spanish version of the term could also be “*Imperio de la Ley*” (“Law’s empire”). This term would denote a rather thin conception of rule of law, possibly closer to the “rule by law”. In any event, these alternatives seem to refer to Law, as a concept, rather than to the mere sum of all laws in force in a particular legal system – simply because these terms do not use the Spanish plural of law, i. e., *leyes*.

Some references may be found in the case law to the “*estado de derecho*” merely as the status of legal affairs (see for example Reg. 173761). In this document, “*estado de derecho*” and “rule of law” will be interchangeable.

The term “rule of law” is scarcely used in legislation, court decisions or legal commentary in Mexico. From this perspective, a simple answer to the question of what the term means in the Mexican legal system is that it is irrelevant. The debates leading to the adoption of the Mexican constitution of 1917 – an amendment of the 1857 Constitution – contain but a couple of references to the term; no such mention transcended to the constitutional text itself, nor has any been incorporated throughout over 500 amendments to the text in the past 95 years.

Further, the term “rule of law” is almost completely absent from federal legislation. Throughout almost 250 federal laws currently in force, the term occurs only seven times. The most prominent places for the use of the term are:

1. Coupled with the pursuit of democratization, the actuality of the rule of law was included in the Freedom of Information Law in 2004 ([Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental](#), 2002) – a groundbreaking regime installed during the first government to defeat a 70-year single party rule.
2. Similarly, the transition government brought the term to the first ever National Security Law, in force since 2005 ([Ley de seguridad nacional](#), 2005). Accordingly, the maintenance of the rule of law is one of the powers of the Center for Investigation and National Security.
3. Also in the area of security, the second transition government integrated “the rule of law” to describe the objective of the naval force in policing the borders at sea ([Ley Orgánica de la Administración Pública Federal](#), 1976);
4. The term was also used as a goal – along with democratization, sustainable development – of the Law of International Cooperation for Development, adopted on April 6, 2011 ([Ley de Cooperación Internacional para el Desarrollo](#), 2011).

The main inclusion of the term in federal legislation before the transition governments came into power, was as a goal of the Law for Dialogue, Conciliation and Peace in Chiapas, adopted to discuss the settlement after the armed uprising of indigenous groups in South East Mexico in 1994. The law came into force in 1995 ([Ley para el Diálogo, la Conciliación y la Paz Digna en Chiapas](#), 1995).

Along with these discrete legislative references, “rule of law” was firmly brought into legal language by the transition governments from 2000 onwards, as the first pillar of national development plans. “Rule of law and public order” became the first pillar of national policy; and since 2006, the main item for federal public discourse, increased revenue and one of the main aspects of public concern ([Plan Nacional de Desarrollo. Eje 1. Estado de derecho y seguridad](#); [Plan Nacional de Desarrollo 2001-2006](#)).

Along with the actions of the new government at home, “rule of law” became a prominent action item in foreign policy. Mexico requested the introduction of this agenda item along with Liechtenstein ([Letter dated 11 May 2006 from the Permanent Representatives of Liechtenstein and Mexico to the United Nations addressed to the Secretary-General](#), [A/61/142 and Corr.1](#)), it was among the most active countries in the Sixth Committee of the General Assembly of the United Nations in 2006. The resolution was finally approved in 2009 ([The rule of law at the national and international levels](#), [Resolution A/RES/63/128, 2009/01/15](#)).

2. The federal judiciary as a source to define the rule of law

The meaning of the “rule of law” is admittedly elusive, and a source of considerable academic and political dispute. Although case law in federal courts registers over one hundred dicta that use the term, others closely related are more frequent, e.g., the “principle of legality” is almost five times as frequent (all dicta can be traced entering the register number [here](#)). The occurrences of the term in our legal system pose an interesting challenge to anyone attempting a description of the concept or use of this idea in current legal and political discourse. After describing the use of this term in the legislative and executive branches, I will now turn to the federal courts. I will present here the general principles derived from the use of the term.

The scarcity of its use does not prevent the relevance of the rule of law from being asserted by the courts. Rule of law as among the highest aspirations of the legal system (Reg. 203501), should be pursued above all technicalities (Reg. 176266), and should be favored above discrete areas of the administration, e.g., the Treasury (Reg. 254520).

2.1 The prohibition of arbitrariness

Unlike some other countries, the adjective “arbitrary” is not a legal category applied to governmental action in Mexico. However, the courts have clearly identified “arbitrariness” as a status contrary to the rule of law (Reg. 240323). The limit to arbitrariness is purely the content of the law, i.e., the principle of legality. This limit has sometimes been extended to apply to precautionary measures against administrative action (Reg. 180996).

Arbitrariness of government action plain unlawfulness entails the violation of “public order” laws, hence depriving unlawful government actions of any legal effects. Such consequence is most properly issued in a judicial decision having reached the status of *res judicata*.

Also regarding the control over administrative action, the courts have recognized that the rule of law is at risk if authorities are granted the opportunity to *ab use the law*, e.g., by issuing customs documents remotely after the facts have been presented, since this would enable facts and circumstances to be altered or misrepresented (Reg. 176549).

2.2 Judicial review, constitutional control

A core component of the “rule of law” is access to courts. Mexican legal culture is strongly identified with the writ of *amparo*, a mechanism for constitutional review that dates back to the mid nineteenth century. The writ lacks *erga omnes* effects and its results are valid only on a case-by-case basis. Strict rules guard standing to pursue *amparo* procedures. Yet, in Mexican legal parlance, *amparo* is a sophisticated and potent tool against state action that may encroach on individual rights.

Not surprisingly, courts have explicitly stated that the role of the *amparo* procedure is to guarantee the rule of law. This mechanism is viewed as a means of defense of individuals against state action that interferes with the exercise of rights, but also as a means to safeguard the integrity of the legal system as a whole (Reg. 187076). Similarly, the power of the *amparo* procedure extends to oversee the application of the constitutional order in all three levels of government: federal, state and municipal (Reg. 246263).

The Supreme Court has described the relationship between constitutional adjudication and the rule of law in the following terms:

“If constitutional control seeks to provide unity and cohesion to the described legal orders [federal, local, municipal] regarding the relationship of entities or organs conforming them, this warrants that once a mechanism has been provided to solve conflicts among them, failure to address certain arguments due to their formal characteristics, or their mediate or immediate connection with the Fundamental Norm, would often yield its inefficacy; thus preventing the safeguard of harmony and the exercise of liberties and powers. Therefore, dismissing such means of control, would contravene its stated purpose, as well as the strengthening of federalism... [G]iven the nature of the constitutional order as a whole, inasmuch as it aims at establishing and maintaining the Rule of Law system as a whole, its defense must also be integral...” (Reg. 193259)

Clearly, constitutional adjudication is perceived as safeguarding the rule of law, including the appreciation of issues of legality (short of constitutionality) of constitutional hierarchy (Reg. 182636); using the constitution as the sole parameter for such determinations, regardless of the particular circumstances of the subjects involved (Reg. 182367). Precautionary measures must be available, so that administrative action is susceptible of proper judicial control (*fait accompli* doctrine) (Reg. 181836).

The safeguard of the citizens' interests is not a mere protectionist measure, but rather their interests are legally protected via the writ of *amparo* (Reg. 255887). This notion is in line with the existence of remedies required under Inter-American Human Rights law (Reg. 165121).

2.3 Formal legality

Relevance of legal institutions is expected to touch the very core of social relationships. Among the features of the legal system that the courts have attached to the idea of the rule of law, we find:

- **Separation of powers:** Powers relate to each other on the basis of separation and cooperation, so that a system of checks and balances is in place (Reg. 166964).

- **Publicity of norms:** General laws must be made public, although limited to the jurisdiction where norms stem from (Reg. 179863).
- **Constitutional supremacy:** The case law refers to “rule of law” as the supremacy of the constitution, as enforced through constitutional adjudication (Reg. 804053).
- **Strict legality:** The Mexican writ of *amparo* has the main function of preserving constitutional rights against encroachment from governmental authorities. The practice, however, has traditionally focused on claims against government action on the basis of poor statement of legal authority to act; poor description of the circumstances of fact that warrant action, either to interfere or to deprive a person of his or her rights. These claims usually fall under articles 14 or 16 of the Mexican Constitution. The paramount place of these arguments in everyday constitutional adjudication – to the detriment of constitutional development of substantive rights – has been recently discussed, as constitutional adjudication shifts slowly into the interpretation of substantive clauses. We may call this shift one from formal legality to substantive legality.
- **Limited government:** The principle of legality is prominent in Mexican case law. Not only is there the common aspiration that every act of governmental authority conforms to the legal order. Particularly, the idea of a limited government, where authorities act exclusively on expressly granted powers, is sometimes referred to as the “principle of distribution” (Reg. 181444).
- **Public safety:** An interesting decision of the Supreme Court has stated the relationship between the government’s police powers and the exercise of rights. In particular connection with public safety, the Court has clearly admitted that the duty of the state is to provide individuals with an environment that allows the exercise of their constitutional rights and the enjoyment of their property (Reg. 168870).
- **Prevalence of legal institutions over private dispute settlement:** The legal system prohibits taking law into one’s own hands (Reg. 168890). Paramount among the values associate with the rule of law, is the commitment to bring conflict within the realm of legal institutions. Similarly, the courts have stated that legislation and general rules, the application thereof by authorities and the rule of courts are the only path to the maintenance of the rule of law (Reg. 190081). In sum, conflict resolution, whether private or involving governmental authorities, is a value that should be pursued to accomplish the rule of law (Reg. 166300).
- **Minimum parameters of criminal justice:** exact application of criminal law (Reg. 183184), *nullum poena sine lege* (Reg. 180130), and the presumption of innocence (Reg. 201417). Textual reference to these components may or may not be a part of the constitution – the presumption of innocence was incorporated into the text only three years ago – yet the courts have interpreted that these principles existed.
- **Minimum procedure guarantees:** the access to courts has plenty of attributes directly connected with the concept of the rule of law. Among other features, the courts have explored extensively the characteristics of procedure, particularly in connection with the writ of *amparo*. Among the core features we find the right to be heard (Reg. 250927), the requirement of equality of the litigants (Reg. 250927), the condition of impartiality of the courts (Reg. 188505).
- **A general principle not to breach the law in the pursuit of the rule of law** has been mentioned in a number of decisions, particularly relating to procedure (Reg. 233026).

2.4 Legal certainty

Mexican case law is profuse in the requirement of legal certainty (*certeza jurídica, or seguridad jurídica*). References to this principle in connection to the rule of law, include

- The paramount role of *res judicata* (Reg. 187263)
- The prohibition of contradictory resolutions (Reg. 175577)
- The preservation of personal liberty – criminal law is always exceptional in the enforcement of taxation laws (Reg. 188627)
- The presumption of validity of administrative action (Reg. 327474).

The pursuit of the rule of law extends into the realm of private relationships, out of concern for legal certainty and proper administration of justice. These interests belong to society as a whole (Reg. 204200).

An interesting aspect of the rule of law is characterized as the legal duties binding upon all individuals, as a condition to achieve a given legal status (Reg. 186148).

2.5 Control over administrative action

Federal courts have clearly spelled out the limits to administrative interpretation of the law, as one that should be “harmonic, teleological, and concatenate” of the legal sources in the Mexican Rule of Law system (Reg. 187347).

The Mexican system of administrative justice has specialized courts within the executive branch. The system of administrative justice as a whole tends to the fulfillment of the rule of law (Reg. 197213). The full extent of judicial control over the administration must also encompass decentralized authorities (Reg. 193281). A core component of the rule of law has been identified as the power of such tribunals to quash administrative action divesting it of any legal effects, even if such power is not expressly and fully granted in the relevant legislation (Reg. 176914).

2.6 Substantive legality

A number of decisions touch upon substantive issues that escape aspects of mere legality. The courts have mentioned, in connection with the rule of law, the “civic duty to cooperate” or “social solidarity”, which requires individuals or government officials to collaborate with authorities reporting circumstances that may be unlawful. The courts have also mentioned the existence of a social rule of law (*estado social de derecho*) (Reg. 188165), whereby not only rules but also social security is protected.

In the context of individual rights, for many times courts have asserted the need for constitutional rights to be effective, as a component of the rule of law. Yet, the extent to which these rights may be interpreted is always constrained by the constitution, even if other sources of law – notably, international treaty law – would grant better protection. This debate will only just start, as a constitutional amendment to integrate treaties into the constitutional legal order has entered into force in June 2011. In particular, the courts have only recently built a relationship between the rights of freedom of information (Reg. 169574) and freedom of expression (Reg. 172477) as necessary for the rule of law. The function of freedom of information regarding government records, may best serve as an attribute of formal legality.

3. Challenges afoot

Against the backdrop of these court decisions, we can see how Mexican legal culture embraces several discrete elements of a concept of the rule of law. This concept, however, has not yet distilled into a standard of review. The core components of the rule of law remain firmly grounded on the principle of legality – either as pure legality or as the idea of a limited government. The statement of this aspiration has still to be developed into positive elements of a principle of interpretation. Open issues include:

1. The definition, powers and processes for a temporary subversion of the constitutional order – either through limitations to constitutional rights or substitution of local authorities by federal agents;
2. Retrospective treatment of military action in the fight against organized crime;
3. Prospective legal regime for military officers in public safety and criminal justice affairs;
4. Civil liability for the state as a result of "collateral damage";
5. Implementation of decisions from international tribunals;
6. Implementation of constitutional amendments to the writ of *amparo* to increase access and to magnify the effects of resolutions;
7. Implementation of the constitutional reform that incorporated human rights treaties into the Constitution, and the exercise of "conventional control" (akin to constitutional control, on the basis of the Inter-American Convention of Human Rights);
8. The reduction of discrimination against migrants, who are constitutionally protected yet suffer heinous crimes on behalf of private and government agents;
9. A whole strand of problems related to implementation of electoral legislation.

The challenges can be sharply restated as prevalent impunity: the idea of legal consequence is still young in some areas of the law. Accountability mechanisms are today among the most frequent fields of study in universities, and civil society action.

Certain decisions ascertain the importance of the rule of law as a value. Yet others impose severe punishments as a consequence of breaching the rule of law. A prominent example is torture, whose obvious connection to the challenge of the rule of law hardly needs to be stated; yet, Mexican law still requires the *res judicata* on criminal liability as a condition for judicial notice of a torture claim (Reg. 165901). This is one among many examples of areas where the idea of legal consequences deserves further development to enhance the reality of the rule of law.

Indeed, the rule of law as a reality of legal institutions today faces formidable challenges, not only as a matter of efficacy, but also as a pure matter of concept. How far institutions will go to assert the government's power over national territory against disruptions is still to be seen.

Bibliography

Acosta, Mariclaire 2010: The Uncertain Defeat of Authoritarianism, Lawlessness and Human Rights in Mexico, *Netherlands Quarterly of Human Rights*, 28:4, December 2010.

Index of Adjudications

Reg. 165121, 9ª Época TCC, XXXI SJF 2853 (Mar 2010) No I.4o.A.705 A (Aislada) ACCESO A LA JUSTICIA. LA IMPROCEDENCIA DE LA VÍA ELEGIDA POR EL ACCIONANTE, DEBIDO A LA INCOMPETENCIA DEL ÓRGANO JURISDICCIONAL INSTADO, NO DEBE TRASCENDER EN DENEGAR UNA SOLUCIÓN JUDICIAL EFECTIVA.

Reg. 165901, 9ª época 1ª Sala, XXX SFJ y Gaceta 416, Nov 2009, no. 1a. CXCI/2009 (Aislada) TORTURA. LA ACTUALIZACIÓN DE ESE DELITO NO PUEDE PRESUMIRSE, SINO QUE DEBE PROBARSE Y SUJETARSE A TODAS LAS REGLAS DE UN DEBIDO PROCESO PENAL.

Reg. 166300, 9ª época 1ª Sala, XXX SJF y Gaceta 456 (Sep 2009) No. 1a. CLVI/2009 (Aislada) RESPONSABILIDAD PATRIMONIAL DEL ESTADO. LA FIJACIÓN DE UN TOPE MÁXIMO PARA LOS MONTOS INDEMNIZATORIOS POR DAÑO MORAL, AL OCASIONAR QUE EN CIERTOS CASOS SEAN LOS PARTICULARES QUIENES ASUMAN LOS COSTOS Y RIESGOS DERIVADOS DE LA ACTIVIDAD ESTATAL, CONTRAVIENE LOS OBJETIVOS GENERALES DE LA LEY FEDERAL RELATIVA Y CREA INCENTIVOS CONTRARIOS AL MANTENIMIENTO DE LA ADECUADA CALIDAD DE LOS SERVICIOS PÚBLICOS.

Reg. 166964, 9ª época Pleno, Fuente: Semanario Judicial de la Federación y su Gaceta XXX, Julio de 2009 Página: 1540 Tesis: P./J. 78/2009 Jurisprudencia Materia(s): Constitucional DIVISIÓN DE PODERES. EL QUE ESTE PRINCIPIO SEA FLEXIBLE SÓLO SIGNIFICA QUE ENTRE ELLOS EXISTE UNA COLABORACIÓN Y COORDINACIÓN EN LOS TÉRMINOS ESTABLECIDOS, PERO NO LOS FACULTA PARA ARROGARSE FACULTADES QUE CORRESPONDEN A OTRO PODER, SINO SOLAMENTE AQUELLOS QUE LA PROPIA CONSTITUCIÓN LES ASIGNA.

Reg. 168870, 9ª época TCC, Semanario Judicial de la Federación y su Gaceta XXVIII, Septiembre de 2008 Página: 1318 Tesis: I.7o.P.110 P Tesis Aislada Materia(s): Penal MENORES INFRACTORES. INTERPRETACIÓN DEL ARTÍCULO SEGUNDO TRANSITORIO DEL DECRETO QUE REFORMA EL DIVERSO 18 DE LA CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS PUBLICADO EN EL DIARIO OFICIAL DE LA FEDERACIÓN EL 12 DE DICIEMBRE DE 2005.

Reg. 168890, 9ª época TCC, XXVIII SJF y Gaceta 1302 (Sp 2008) No. I.4o.C.27 K (Aislada) INTIMIDAD Y DERECHO PROBATORIO. EN CASO DE COLISIÓN DE ESTOS DERECHOS FUNDAMENTALES, AQUEL DEBE CEDER FRENTE A ÉSTE, PERO DE MANERA RACIONAL Y PROPORCIONAL.

Reg. 169574, 9ª época Pleno, XXVII SJF y Gaceta 743, Jun 2008, no. P./J. 54/2008 (Jurisprudencia) ACCESO A LA INFORMACIÓN. SU NATURALEZA COMO GARANTÍAS INDIVIDUAL Y SOCIAL.

Reg. 172477, 9ª época Pleno, XXV SJF y Gaceta 1522, Mayo 2007, no. P./J. 24/2007 (Jurisprudencia) LIBERTAD DE EXPRESIÓN. LOS ARTÍCULOS 6o. Y 7o. DE LA CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS ESTABLECEN DERECHOS FUNDAMENTALES DEL ESTADO DE DERECHO.

Reg. 173761, 9a Época TCC, XXIV SJF y Gaceta 1344, Dec 2006, No. II.2o.C.509 C (Aislada) GUARDA Y CUSTODIA DE MENORES. LA PRETENSIÓN DE CAMBIO DE LA SITUACIÓN JURÍDICA PREEXISTENTE, ESTÁ SUPEDITADA A QUE PREVIAMENTE SE CUMPLA CON LA CONDICIÓN DE ENTREGA DE LOS INFANTES A FAVOR DE QUIEN EJERCE ESA GUARDA Y CUSTODIA, LEGAL Y FORMALMENTE DECRETADA EN SENTENCIA FIRME.

Reg. 175577 9a Época TCC, XXIII Sem Jud de la Fed y Gaceta, Marzo 2006, p 2016 No. I.2o.P.122 P (Aislada) INCONFORMIDAD. QUEDA SIN MATERIA EN CASO DE QUE EL INCONFORME INTERPONGA QUEJA POR DEFECTO O EXCESO EN EL CUMPLIMIENTO DE LA SENTENCIA DE AMPARO.

Reg. 176266, 9ª época TCC, XXIII SJF y Gaceta 2393 (Ene 2006) No. I.8o.A.82 A (Aislada) JUICIO CONTENCIOSO ADMINISTRATIVO. PROCEDE CONTRA LAS RESOLUCIONES DICTADAS POR LAS AUTORIDADES ADUANERAS, SIN QUE PREVIAMENTE SEA NECESARIO AGOTAR EL RECURSO DE REVOCACIÓN PREVISTO POR EL ARTÍCULO 94 DE LA LEY DE COMERCIO EXTERIOR.

Reg. 176549, 9a Época , TCC XXII SJF y Gaceta, Dec 2005, p. 2390 No. IV.1o.A. J/7 (Jurisprudencia) FACULTADES DE COMPROBACIÓN EN MATERIA ADUANERA. EL ESCRITO O ACTA CIRCUNSTANCIADA PREVISTOS EN EL ARTÍCULO 152 DE LA LEY RELATIVA, DEBEN FORMULARSE Y ENTREGARSE EN EL MOMENTO EN QUE SE LEVANTEN, CON LA PRESENCIA DEL DIRECTAMENTE INTERESADO O DE SU LEGÍTIMO REPRESENTANTE Y TESTIGOS DE ASISTENCIA.

Reg. 176914, 9a Época, TCC XXII Sem Jud de la Fed y Gaceta, Octubre 2005, p. 2431 No. XV.3o.23 A (Aislada) NULIDAD LISA Y LLANA. PROCEDE DECLARARLA CONTRA LA RESOLUCIÓN EMITIDA POR AUTORIDAD INCOMPETENTE QUE REMUEVE DEL CARGO A UN MIEMBRO DE LA POLICÍA Y TRÁNSITO MUNICIPAL, Y COMPETE A LA INSTANCIA ADMINISTRATIVA PRONUNCIARSE AL RESPECTO, AUN CUANDO LA LEY DEL TRIBUNAL DE LO CONTENCIOSO ADMINISTRATIVO NO PREVEA LOS TIPOS DE ANULACIÓN (LEGISLACIÓN DEL ESTADO DE BAJA CALIFORNIA).

Reg. 179863, 9ª época 2ª Sala, Fuente: Semanario Judicial de la Federación y su Gaceta XX, Diciembre de 2004 Página: 389 Tesis: 2a./J. 169/2004 Jurisprudencia Materia(s): Administrativa LEYES Y DECRETOS EXPEDIDOS POR LA ASAMBLEA LEGISLATIVA DEL DISTRITO FEDERAL. PARA SU DEBIDA APLICACIÓN Y OBSERVANCIA SÓLO ES NECESARIA SU PUBLICACIÓN EN LA GACETA OFICIAL DEL DISTRITO FEDERAL.

Reg. 180130, 9ª época TCC, XX SJF y Gaceta 1976 (Nov 2004) No. I.2o.P.85 P (Aislada) JUSTICIA MILITAR, CÓDIGO DE. LA APLICACIÓN SUPLETORIA DEL CÓDIGO PENAL FEDERAL, DEBE LIMITARSE A LA IMPOSICIÓN DE PENAS PREVISTAS EN ÉSTE.

Reg. 180996, 9a Época TCC XX Sem Judicial de la Fed y Gaceta, julio 2004, p 1817 No. IV.3o.A.13 A (Aislada) SUSPENSIÓN PROVISIONAL EN CONTRA DE UNA CLAUSURA TEMPORAL. PARA SU CONCESIÓN DEBE VERIFICARSE EL CUMPLIMIENTO DE LOS REQUISITOS PREVISTOS EN EL ARTÍCULO 124 DE LA LEY DE AMPARO Y DEMOSTRARSE LOS PRESUPUESTOS JURÍDICOS Y FÁCTICOS DE LA APARIENCIA DEL BUEN DERECHO Y EL PELIGRO EN LA DEMORA.

Reg. 181444, 9ª época Pleno, Fuente: Semanario Judicial de la Federación y su Gaceta XIX, Mayo de 2004 Página: 147 Tesis: P. XXVI/2004 Tesis Aislada Materia(s): Común SENTENCIAS DE AMPARO. INDEMNIZACIÓN DE DAÑOS Y PERJUICIOS EN SUSTITUCIÓN DE LA OBLIGACIÓN ORIGINAL. SI SE DETERMINÓ MEDIANTE PROCEDIMIENTO NOTORIAMENTE VICIADO, NO DEBE APLICARSE A LA RESPONSABLE LA FRACCIÓN XVI DEL ARTÍCULO 107 DE LA CONSTITUCIÓN FEDERAL, CUYO OBJETO ES, PRECISAMENTE, RESGUARDAR EL ESTADO DE DERECHO.

Reg. 181836 , 9a Época, XIX SJF y Gaceta 1629 , Mar 2004 No. I.4o.A.427 A (Aislada) SUSPENSIÓN EN EL AMPARO. DEBE CONCEDERSE CONTRA UNA INTERLOCUTORIA QUE NIEGA LA SUSPENSIÓN, PERMITIENDO LA EJECUCIÓN DE UNA GARANTÍA Y LA POSIBLE REVOCACIÓN O CANCELACIÓN DE UN PERMISO, AL TRATARSE DE UN ACTO NEGATIVO CON EFECTOS POSITIVOS.

Reg. 182367, Localización: Novena Época Instancia: Tribunales Colegiados de Circuito Fuente: Semanario Judicial de la Federación y su Gaceta XIX, Enero de 2004 Página: 1565 Tesis: I.7o.A.271 A Tesis Aislada Materia(s): Administrativa MULTAS. NO SON INCONSTITUCIONALES LAS LEYES QUE LAS PREVEN, SI SU MONTO EXCEDE LA CAPACIDAD ECONÓMICA DE UN CONTRIBUYENTE EN PARTICULAR.

Reg. 182636, 9ª época 1ª Sala, XVII SJF y Gaceta 83, Dec 2003, No. 1a. LXXIX/2003 (Aislada) FACULTAD DE ATRACCIÓN PREVISTA EN EL ARTÍCULO 105, FRACCIÓN III, DE LA CONSTITUCIÓN FEDERAL. SU NATURALEZA JURÍDICA.

Reg. 183184, 9ª época TCC, XVIII SJF y Gaceta 1444 (Sep 2003) No. II.2o.P.97 P (Aislada) TIPO PENAL ABIERTO. NO LO ES EL CORRESPONDIENTE AL DELITO DE ABUSO DE AUTORIDAD POR EL HECHO DE CONTENER ELEMENTOS NORMATIVOS QUE REQUIERAN VALORACIÓN JURÍDICA O CULTURAL.

Reg 186148, 9a Época 1a Sala, XVI SJF y Gaceta 195, ago 1995, no. 1a. LI/2002 (Aislada) RENTA. EL ARTÍCULO 70, PÁRRAFO PENÚLTIMO, DE LA LEY DEL IMPUESTO RELATIVO, AL ESTABLECER QUE LAS PERSONAS MORALES NO CONTRIBUYENTES CONSIDERARÁN COMO REMANENTE DISTRIBUIBLE LAS EROGACIONES QUE EFECTÚEN Y NO SEAN DEDUCIBLES CONFORME AL TÍTULO IV DE AQUEL ORDENAMIENTO, NO VIOLA EL PRINCIPIO DE PROPORCIONALIDAD TRIBUTARIA.

Reg. 188627, 9a Época ,TCC, XIV SJF y Gaceta 1109, Oct 2001, no. XV.1o.25 P (Aislada) DEFRAUDACIÓN FISCAL. REQUISITOS PARA QUE PROCEDA LA INDAGACIÓN PENAL SIMULTÁNEA AL PROCEDIMIENTO ECONÓMICO-COACTIVO.

Reg. 187076, 9a Época Pleno, X SJF y Gaceta, Abril 2002, p. 19 No. P. XXIII/2002 (Aislada) SENTENCIAS DE AMPARO. SU CUMPLIMIENTO SUSTITUTO, MEDIANTE EL PAGO DE UNA INDEMNIZACIÓN A TÍTULO DE DAÑOS Y PERJUICIOS, NO AFECTA LOS DERECHOS DE LA COLECTIVIDAD.

Reg. 187263, 9a Época, TCC, XV SJF y Gaceta 1241, abril 2002, No. XVII.4o.3 K (Aislada) COSA JUZGADA EN UN JUICIO DE AMPARO. NO PUEDE DESTRUIRSE A TRAVÉS DE UN INCIDENTE DE OBJECCIÓN DE DOCUMENTOS PLANTEADO EN JUICIO DIVERSO.

Reg. 187347, 9a Época TCC, XV Sem Jud de la Fed y Gaceta, Marzo 2002, p. 1493, No. VI.3o.A.70 A (Aislada) VISITAS DOMICILIARIAS. EL ARTÍCULO 46-A DEL CÓDIGO FISCAL DE LA FEDERACIÓN NO TRANSGREDE EL ARTÍCULO 16 CONSTITUCIONAL POR NO SEÑALAR CASUÍSTICAMENTE LOS SUPUESTOS EN QUE PUEDE DARSE SU AMPLIACIÓN.

Reg. 188505, 9ª época, XIV SCJ y Gaceta 1187, Oct 2001, No. I.1o.A.61 A (Aislada) REVISIÓN EN AMPARO, RECURSO DE. EL INSTITUTO MEXICANO DE LA PROPIEDAD INDUSTRIAL CARECE DE LEGITIMACIÓN PARA INTERPONERLO CUANDO EL ACTO RECLAMADO ES EMITIDO EN EJERCICIO DE FUNCIONES MATERIALMENTE JURISDICCIONALES.

Reg. 190081, 9ª época TCC, XIII SJF y Gaceta 1811 (Mar 2001) No. I.3o.A.45 A (Aislada) REVISIÓN FISCAL, PROCEDENCIA DEL RECURSO DE. ES IMPORTANTE Y TRASCENDENTE POR TRATARSE DE LA MATERIA DEL MEDIO AMBIENTE, NO OBSTANTE, LA AUTORIDAD DEBE RAZONARLO.

Reg. 193259, 9ª época Pleno, XSJF y Gaceta 703, Sep 1999, No. P./J. 98/99 (Jurisprudencia) CONTROVERSIAS CONSTITUCIONALES. EL CONTROL DE LA REGULARIDAD CONSTITUCIONAL A CARGO DE LA SUPREMA CORTE DE JUSTICIA DE LA NACIÓN, AUTORIZA EL EXAMEN DE TODO TIPO DE VIOLACIONES A LA CONSTITUCIÓN FEDERAL.

Reg. 193281 Localización: Novena Época Instancia: Tribunales Colegiados de Circuito Fuente: Semanario Judicial de la Federación y su Gaceta X, Septiembre de 1999 Página: 721 Tesis: XIV.2o. J/22 Jurisprudencia Materia(s): Administrativa AUTORIDAD RESPONSABLE. LO ES EL INSTITUTO DE VIVIENDA DEL ESTADO DE QUINTANA ROO, AL EJECUTAR ADMINISTRATIVAMENTE UN CONVENIO DE REORDENAMIENTO URBANO.

Reg. 197213, 9ª época Pleno, VI SJF 539, Dec 1997, no. P./J. 101/97 (Jurisprudencia) CONTROVERSIA CONSTITUCIONAL. TRIBUNAL DE LO CONTENCIOSO ADMINISTRATIVO DEL ESTADO DE NUEVO LEÓN. LOS ARTÍCULOS 63, FRACCIÓN XLV, DE LA CONSTITUCIÓN POLÍTICA DEL PROPIO ESTADO Y 15 DE LA LEY ORGÁNICA DE DICHO TRIBUNAL, NO VULNERAN LA ESFERA DE COMPETENCIA DE LOS MUNICIPIOS.

Reg. 201417, 9ª época TCC, IV SJF y Gaceta 649 (Sep 1996) No. II.2o.P.A.38 P (Aislada) FALSIFICACION DE DOCUMENTOS, DELITO DE. DE LA CIRCUNSTANCIA DE PODER RESULTAR BENEFICIADO POR LA ALTERACION DEL DOCUMENTO, NO ES VALIDO INFERIR APODICTICAMENTE LA REALIZACION DE LA CONDUCTA TIPICA.

Reg. 203501, 9ª época TCC, III SJF y Gaceta 362 (Ene 1996) No. II.2o.P.A.11 K (Aislada) TESTIGOS EN EL AMPARO. LA RELACION DE PARENTESCO O AMISTAD CON EL QUEJOSO NO LES IMPOSIBILITA, APRIORISTICAMENTE, PARA COMPARECER A TESTIFICAR.

Reg. 204200 9a Época TCC, II SJF y Gaceta 462, oct 1995, No: XIX.1o. J/1 (Jurisprudencia) SUSPENSION. IMPROCEDENCIA DE LA TRATANDOSE DE RECUSACION DE UN ORGANO JURISDICCIONAL DECLARADA IMPROCEDENTE.

Reg. 233026, 7a Época, Pleno, 68 (I) SJF 34 (Aislada) LEYES DE EMERGENCIA, CONSTITUCIONALIDAD DE LOS IMPUESTOS FIJADOS EN LAS.

Reg. 240323, 7a Época, III Sala 175-80 Sem Jud de la Fed (IV), p. 9 (Aislada) ACTOS ILICITOS. SE INCURRE EN ELLOS SI UN FUNCIONARIO PUBLICO VIOLA LA CONSTITUCION AL EJERCER SUS FACULTADES.

Reg. 246263, 7a Sala Aux, 23 Sem Jud de la Fed (VII) p. 74 (Aislada), AMPARO, NATURALEZA PUBLICA DEL.

Reg. 250927, 7ª época TCC, 145-150 (vi) SJF 183 (Aislada) NOTIFICACIONES NULAS.

Reg. 254520 , Localización: Séptima Época Instancia: Tribunales Colegiados de Circuito Fuente: Semanario Judicial de la Federación 79 Sexta Parte Página: 98 Tesis Aislada Materia(s): Administrativa VISITAS INCONSTITUCIONALES. SUS FRUTOS NO PUEDEN SER UTILIZADOS LEGALMENTE, NI MEDIANTE UNA SEGUNDA VISITA.

Reg. 255887, 7a Época TCC, (Aislada) PELOTARIS NACIONALES, INTERES JURIDICO DE LOS, EN LA APLICACION DE LA LEY DE POBLACION.

Reg. 327474, 5a época, 2a Sala, REVOCABILIDAD DE LOS ACTOS ADMINISTRATIVOS.

Reg. 804053, 7ª época Pleno, (Aislada) REGLAMENTOS, COMPETENCIA PARA EL RECURSO DE REVISION.