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LADB Staff

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Congress Approves Initiative to Give Human Rights Commission Autonomy

by LADB Staff

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In early June, the Chamber of Deputies and the Senate approved changes to Article 102 of the Mexican Constitution that would transform the Comisión Nacional de Derechos Humanos (CNDH) into more of an independent agency. The initiative must be approved by the legislatures of Mexico's 31 states before becoming law. Under the changes, the CNDH will no longer fall under the jurisdiction of the executive branch, but will answer primarily to Congress. The 10 members of the commission, including the chair, will be named by the Senate through a two-thirds majority vote.

The CNDH chair will be required to deliver an annual report on the state of human rights in Mexico to both houses of Congress. The legislation also gave the CNDH the authority to determine its own budget. However, the initiative failed to enhance the role of the commission, which will continue only to recommend action in cases of human rights abuses but will have no powers of enforcement. In addition, the legislation failed to expand the role of the commission to consider complaints of labor and electoral violations.

Some legislators call reforms insufficient

The lack of comprehensive reforms to the commission caused some members of the center-left Partido de la Revolución Democrática (PRD) to abstain from the vote in the Chamber of Deputies, while the entire eight-member delegation of the Partido del Trabajo (PT) in the lower house voted against the initiative.

In the Senate, the measure won by a narrow margin of only 104-92, with members of the PRD and other parties citing the need for more comprehensive reforms. The commission has not been shy about criticizing police, prosecutors, the military, and government agencies, particularly under the leadership of current director Mireille Roccatti.

Critics claim, however, the criticisms are merely window-dressing, since the CNDH lacks the power or independence to stop abuses and prosecute violators. Many Mexican and international human rights organizations have documented cases of human rights abuses under President Ernesto Zedillo's administration and under previous governments.

For example, a recent report by the Centro de Justicia y el Derecho Internacional (CEJIL) accused the administration of failing to act on complaints filed before the Inter-American Commission on Human Rights (IAHCR) in 1998 regarding cases of torture, forced disappearance, summary executions, and freedom of speech. The CEJIL report, released in early June, made a special mention of the case of Gen. Jose Francisco Gallardo, who was taken into custody in 1993 after publishing an article highly critical of the army's human rights record. "The attitude of the government toward CIDH recommendations in 1998 has been one of total intransigence," said the Cejil report. "The

government has either claimed sovereignty, denied a connection with the cases, or totally ignored the recommendations."

CNDH claims some successes

Still, a handful of the CNDH recommendations have had some effect. The commission's opinion weighed heavily in the decision of Morelos state legislators in June of this year to strip Gov. Jorge Carrillo Olea of his immunity from criminal prosecution for allowing state agencies to violate the rights of private citizens. However, the legislature's vote was declared unconstitutional by Mexico's highest court (Suprema Corte de Justicia de la Nacion, SCJN). The Morelos state legislature decided to impeach Carrillo after an extensive investigation in which the governor was found to have tolerated and even encouraged state law enforcement agencies to torture suspects (see SourceMex, 1998- 04-22).

The widely publicized cases of torture resulted in the arrest of two former state officials, judicial police chief Jesus Miyazawa and anti-kidnapping agency director Armando Martinez Salgado. But Carrillo Olea escaped prosecution because of the immunity he enjoyed as governor. In addition to the Carrillo case, the CNDH has also led Mexico's effort before the UN to stop the execution of 42 Mexicans on death row in US states.

Mexico, which does not recognize the death penalty, argues that executions are a violation of human rights. The brunt of the criticism against the Mexican government's lack of human rights enforcement has fallen on the Secretaria de Gobernacion (SEGOB), which is responsible for carrying out most CNDH recommendations. SEGOB's functions range from coordinating the fight against crime and drug trafficking to implementing migration policies and leading peace negotiations with the Ejercito Zapatista de Liberacion Nacional (EZLN) in Chiapas. SEGOB has been led by four different interior secretaries during Zedillo's tenure in office.

Some human rights organizations have raised concerns about the newest secretary, former Oaxaca governor Diodoro Carrasco. Carrasco was appointed to the post when Francisco Labastida resigned to run for the presidential nomination for the governing Partido Revolucionario Institucional (PRI). Carrasco gained prominence for adopting a hard line against the Ejercito Popular Revolucionario (EPR), which operated mainly in the mountainous regions of Guerrero and Oaxaca states.

Israel Ochoa, an attorney who represents several persons detained for alleged connections to the EPR, said Carrasco's administration fabricated charges against many of his clients. "This the same person who terrorized any person who was in any form accused of having any connection to the EPR," said Ochoa. (Sources: Proceso, 05/20/99; Reuters, 05/21/99; El Universal, 06/02/99, 06/03/99; Novedades, 06/02/99, 06/03/99, 06/04/99; Spanish news service EFE, 06/02/99, 06/08/99; La Jornada, 06/02/99, 06/03/99, 06/08/99; Associated Press, 06/02/99, 06/07/99, 06/08/99; El Economista, 06/08/99; Excelsior, 06/03/99, 06/04/99, 06/30/99)

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