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Fox Sends Congress Proposal to Protect Human Rights Via Constitution

by LADB Staff  
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President Vicente Fox has proposed a change to the Mexican Constitution that would strengthen the legal standing of human-rights protections in Mexico. Under the proposal, Fox has asked the Congress to modify Article 89 of the Constitution to include protections of individual rights. The proposal is based in part on recommendations by the UN High Commissioner for Human Rights (UNHCHR).

The proposal would empower the federal judicial and executive branches to intervene in state and local cases to protect human rights. The proposal would also expand opportunities for court injunctions and allow government human rights commissions to file court challenges on constitutional grounds. The commissions are now limited to making recommendations.

**UN agency, human rights commission endorse proposal**

Andres Kompass, the UNHCHR's representative in Mexico, said stronger laws would have allowed the federal government to intervene sooner in the cases involving the murders of hundreds of women in Ciudad Juarez over the past decade. The Procuraduria General de la Republica (PGR) had been reluctant to intervene in the investigations on the premise that these cases were the jurisdiction of authorities in Ciudad Juarez and Chihuahua state (see SourceMex, 2003-04-30 and 2003-07-30). "(The proposal) means that in a case like Ciudad Juarez we shouldn't have to wait 10 years for federal institutions to take over," said Anders Kompass, the UNHCHR's representative in Mexico.

Earlier this year, Fox appointed a special prosecutor to investigate the murders, but this decision came only after strong pressure from domestic and international human-rights organizations (see SourceMex, 2004-02-04). Kompass called the Fox proposal a step in the right direction. "It's exactly what we want, taking into account that the majority of human rights violations take place out in the states," he said. The Fox plan also received the endorsement of the Comision Nacional de Derechos Humanos (CNDH), a semi-independent human rights agency that is affiliated with the federal government. "This is a precedent-setting document, which was put together with the consensus of diverse political and civil interests," said CNDH director Jose Luis Soberanes Fernandez.

The Congress has yet to take a vote on Fox's proposal, but the center-left Partido de la Revolucion Democratica (PRD) offered its guarded support to the document. "This is similar to a plan we put forth in the Chamber of Deputies in March," PRD spokespersons said. But the center-left party also took the opportunity to criticize Fox for the lack of progress on human-rights protections during his administration. "Torture, disappearances and murders are continuing unabated," said the PRD. "The victims are women, union members, activists, campesinos, and human-rights advocates."
Non-governmental organizations criticize plan

Fox's proposal did not receive acclaim from nongovernmental human-rights organizations, who accused the administration of not consulting with them when drafting the document. "This is a lack of respect not to inform those of us that have sought such a plan for more than a year and a half," said Miguel Concha Malo of Centro de Derechos Humanos Fray Francisco de Vitoria. "This authoritarian decision brings into question the federal government's intention to push true changes in the area of human rights." Furthermore, said Concha, the proposal is weak because it lacks mechanisms to incorporate most recommendations from independent international human-rights groups.

The Asociacion de Familiares de Detenidos, Desaparecidos y Victimas de Violaciones a los Derechos Humanos (AFADEM) described Fox's proposal as cosmetic. "This is a simulation that allows the federal government to continue to speak out of both sides of its mouth in terms of human rights," said AFADEM executive secretary Julio Mata Montiel. Mata Montiel said the Fox government ignored certain proposals that non-governmental organizations were presenting, and thus "perpetuates impunity and the lack of access to the justice system."

OAS human rights court considers case against Mexico

One recommendation that the Fox administration has ignored in recent years came from the Inter-American Commission on Human Rights (IACHR), an agency of the OAS. The commission, which is based in Washington, D.C., last year ordered the release of Alfonso Martin del Campo, who is charged with the murder of his brother and brother-in-law in 1993.

Relatives contend that Martin del Campo was tortured into making a false confession. He has been imprisoned since 1992. The commission claims jurisdiction over the case because Martin del Campo was born in Chicago and holds both US and Mexican citizenship. Martin del Campo's attorneys said their client was not allowed to consult with US consular representatives at the time of his arrest. This argument is similar to ones advanced by the Fox government in seeking new trials for Mexicans on death row in the US (see SourceMex, 2003-12-03 and 2004-04-14).

After the Mexican government refused to comply with the IACHR, Martin del Campo's family appealed the case to the Inter-American Court of Human Rights, which is based in San Jose, Costa Rica. The court is affiliated with the IACHR, which helps set its agenda. The court held hearings on the matter in late April but has yet to decide whether to take the case. "This is the last opportunity for Alfonso to find some justice on this Earth," said Arturo Requesens, a human-rights attorney who presented Martin's case before the court. "We have exhausted all other remedies."

The Mexican government, for its part, argued that the court does not have jurisdiction because the case came six years before Mexico's Senate recognized the authority of the Inter-American Court in 1998. Even though Mexico took years to recognize the jurisdiction of the court, the administration of former President Jose Lopez Portillo signed the American Convention on Human Rights in 1981. The court was created to oversee compliance with that agreement, although it has not been given any enforcement powers.
Juan Jose Gomez Camacho, director of human rights affairs at the Secretaria de Relaciones Exteriores (SRE), declined to discuss the merits of the Martin del Campo conviction during a press conference with reporters. "We don't come here with the attitude that we are in the dock of the accused," said Gomez. "We come here to argue a legal controversy, a difference of opinion we have with the [commission]." Gomez said Mexico would comply with the court's decision.

IACHR director Santiago Canton responded that the court was within its rights when it took the case because Martin del Campo remains behind bars. "To this day, this case has been an example of absolute impunity," Canton said. (Sources: Reuters, 04/26/04; El Sol de Mexico, El Financiero, El Independiente, United Press International, 04/27/04; La Jornada, 04/21/04, 04/27/04, 04/28/04; Associated Press, 04/22/04, 04/28/04; Agencia de noticias Proceso, 04/26/04, 04/28/04; The Chicago Tribune, 04/28/04; The Herald-Mexico City, 04/27/04, 04/29/04; Notimex, 04/26/04, 05/05/04; Unomasuno, 04/27/04, 05/05/04; El Universal, 04/30/04, 05/05/04)

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