

12-15-2004

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### Recommended Citation

LADB Staff. "Lower House Approves Jurisdiction of International Criminal Court In Mexico." (2004).  
<https://digitalrepository.unm.edu/sourcemex/4811>

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## Lower House Approves Jurisdiction of International Criminal Court In Mexico

by LADB Staff

Category/Department: Mexico

Published: 2004-12-15

In early December, the Chamber of Deputies voted overwhelmingly to modify the Constitution to ratify the Rome Statute, which created the International Criminal Court (ICC). The court is based in the Dutch city of The Hague. The constitutional changes, which the lower house approved by a vote of 347-12, with five abstentions, recognize the jurisdiction of the ICC in Mexico in certain criminal matters, including war crimes, crimes against humanity, genocide, and crimes of aggression.

The vote in the lower house came almost two years after the Senate voted conditionally to ratify the Rome Statute. The measure still needs approval by at least 16 of Mexico's 31 state legislatures because it involves changes to the Constitution. Once this approval is received, Mexico would become the 98th country to ratify the Rome Statute.

Mexico, which in 2000 endorsed the creation of the ICC, was slow to ratify the Rome Statute because of concerns that the ICC could supersede the jurisdiction of the Mexican Supreme Court (Suprema Corte de Justicia de la Nacion, SCJN). This concern prompted the Senate to require that the Mexican president and a Senate majority first give their approval before any Mexican citizen is turned over to the ICC for trial.

### *Conditional support worries international NGOs*

The conditions the Senate had imposed had drawn criticism from international legal organizations. "We are pleased that the Mexican Senate ratified the Rome Statute," the Federation of International Leagues on Human Rights (FIDH) said in December 2002. "At the same time, we find it unacceptable that the Mexican president and the Senate would have discretion to determine whether international jurisdiction applies."

The conditions attached by the Senate, however, made the debate in the lower house less contentious, with the only opposition coming from the small Partido del Trabajo (PT). PT Deputy Amadeo Espinosa raised concerns that the involvement of the ICC could trample on the legal rights of Mexican citizens, who theoretically could be subject to double jeopardy. "No one can be judged twice for the same crime," said Espinosa.

The majority of members of the lower house downplayed these concerns. "This treaty is subject to the Vienna Convention, which states that the ICC can only intervene when the country's own legal protections cease to function," said Deputy Francisco Frias Castro of the former governing Partido Revolucionario Institucional (PRI). "This decision to recognize the ICC safeguards all the human and individual rights that Mexicans currently enjoy," said Frias, who chairs the constitutional issues committee (Comite de Puntos Constitucionales).

Deputy Eliana Garcia Laguna, a member of the center-left Partido de la Revolucion Democratica (PRD), said the recognition of the ICC forces Mexico to take a close look at its legal codes to ensure that they meet the "highest international standards." In particular, Garcia pointed to the court's recent efforts to ensure the protection of women's rights. "For the first time, an international tribunal is penalizing gender violence," said Garcia.

While Mexico was slow to ratify the Rome Statute, President Vicente Fox's administration has not hesitated to bring issues such as the US death penalty before legal entities with global jurisdiction like the International Court of Justice (ICJ), also based in The Hague.

The ICJ is only empowered to hear disputes between states, while the ICC will have the authority to indict individuals. In 2003, the ICJ ordered US authorities to postpone the executions of three Mexican citizens on death row because their rights to fair representation were violated (see SourceMex, 2003-02-12).

The ICJ ruling had some influence on the decision of Oklahoma Gov. Brad Henry to commute the sentence of a Mexican national facing the death penalty (see SourceMex 2004-05-19). The ICJ's ruling also played a role in the successful appeal of Mexican national Jose Ernesto Medellin to the US Supreme Court in mid-December. Medellin is awaiting execution in Texas.

The US court's decision to hear Medellin's appeal is considered by some a test of whether the US judicial branch would be willing to accept the authority of an international legal institution. In the weeks leading to the decision to hear the case, the Supreme Court received friend-of-the-court briefs from Argentina, Bolivia, Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, Uruguay, Venezuela, and the European Union (EU), asking that the Medellin case be heard. In contrast, the US court neither received nor invited the views of US President George W. Bush's administration before it acted, said The New York Times. (Sources: El Financiero, 12/16/02; The News, 12/17/02; La Jornada, 12/19/02; Milenio Diario, 01/30/03; Notimex, 09/12/04, 10/27/04, 12/09/04; Spanish news service EFE, 10/25/04, 10/26/04, 12/09/04; El Universal, 10/27/04, 12/10/04; The Washington Post, Associated Press, 12/11/04; The New York Times, 12/13/04)

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