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Death Penalty Gains Public Acceptance; Unlikely to be Implemented

by LADB Staff

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The death penalty, once thought to be one of the biggest taboos in Mexico, has become the subject of debate because of the surge in drug-related violence and kidnappings. While the possibility is still remote that capital punishment will be implemented, some politicians are proposing it as one option to help bring down what seems to be an out-of-control crime situation. In the remote chance that Mexico agrees to enact the death penalty, it would weaken the country's arguments opposing the execution of Mexican nationals by several US state governments.

Coahuila state drafts capital-punishment plan

The controversy regarding the death penalty started in Coahuila state, where members of the Partido Revolucionario Institucional (PRI) in the state legislature pushed through an initiative asking the federal Chamber of Deputies to change the Mexican Constitution to allow the measure in limited cases. Capital punishment would only come into play in cases where kidnappers kill or mutilate their victims.

Coahuila's PRI Gov. Humberto Moreira was a moving force behind the initiative. The governor contends that he is simply following the will of citizens of the state. Members of the conservative Partido Accion Nacional (PAN) and the center-left Partido de la Revolucion Democratica (PRD) in the Coahuila legislature voted against the measure, which was approved by a 22-10 margin. The eight PAN legislators, reflecting the position held by many in the national party, cited their opposition to "anti-life measures," which includes abortion as well as the death penalty.

Federal legislators have not said whether they will agree to debate the Coahuila proposal, but any debate is extremely unlikely to result in legislative action, given the strong opposition of the PAN, PRD, and a large majority of the PRI to changing the Constitution.

Mexico also has international obligations to uphold the ban on capital punishment. In 1981, the country signed a human rights treaty sponsored by the Organization of American States (OAS), which stipulates that the death penalty cannot be restored once it is eliminated. Mexico would also be viewed as hypocritical if it were to institute capital punishment, given its strong opposition to the application of the punishment against Mexican nationals residing in the US. Mexico has gone as far as to take this issue to the International Court of Justice (ICJ), also known as the World Court (see SourceMex, 2003-02-12 and 2004-04-14).

Earlier this year, the US Supreme Court ruled that the ICJ has no jurisdiction over US states (see SourceMex, 2008-05-14). Some critics who oppose the use of capital punishment in Mexico question whether it has acted as a deterrent in the US. Among these is Ernesto Lopez Portillo, executive director of the Instituto para la Seguridad y la Democracia (INYSDE), who noted that the rate of murders is higher in US states that use the death penalty than in those that do not.

Still, Lopez Portillo acknowledged that the clamor for the death penalty in Mexico is understandable, given the inability of authorities to combat crime, which appears to be out of control. "This proposal is rooted more in the concept of revenge than in justice," said the INYSDE director. Similar comments came from Alberto Herrera, director of Amnesty International in Mexico, who agreed that the call for the death penalty reflects "society's desperation" regarding the climate of insecurity in Mexico. At the same time, he said, "the risk is that it leads to calls for revenge. Times of desperation are the worst times to go for facile solutions."

There were also detractors in the media, with some political commentators casting strong doubts on the concept that capital punishment would solve Mexico's crime problem. "The threat of capital punishment is not going to stop criminals," columnist Leo Zuckermann wrote in the Mexico City daily newspaper *Excelsior*. Zuckermann said a major part of the problem is that a large number of criminals in Mexico escape any punishment. "What is going to stop them is the possibility that they will be captured and punished," he said.

Some politicians agree with this, saying a debate on the death penalty in the Chamber of Deputies would be beneficial, even if the Congress ultimately decides against imposing it. "If 98% of criminals escape prosecution for their crimes, it is clear that the population feels wounded and tends to support capital punishment," PAN Deputy Gerardo Priego told reporters.

Even within the PRI, there is strong reluctance to accept the measure proposed by Moreira. Party president Beatriz Paredes called for caution and "ample reflection" in considering the Coahuila proposal. Even if the death penalty is not enacted, Paredes raised concerns that the debate could lead to measures promoting "authoritarian excesses."

Some see proposal as politically motivated

The PRD, the PAN, and the Partido Convergencia por la Democracia (PCD) questioned Moreira's motives in proposing the use of capital punishment in Mexico. Deputy Javier Gonzalez Garza, PRD floor leader in the lower house, said the Coahuila governor was introducing a debate about the death penalty to support his party in the midterm federal congressional elections on July 5, 2009.

There will also be gubernatorial races in six states, mayoral and state legislative elections in those same states as well as five others. Gonzalez Garza said the move by the PRI-dominated Coahuila legislature to promote the death penalty was clearly an electoral maneuver. "They were well aware of the constitutional obstacles that this initiative would face," he said. "And yet they dared to send it anyway."

Other critics in the media also questioned Moreira's motivations. "What [Gov. Moreira] is seeking is to position himself as the visible leader of an effort to legalize a sanction that is supported by a majority of Mexicans," said syndicated columnist Sergio Sarmiento.

Still, the Coahuila governor and the state legislature are not the only political entities in support of the death penalty. The Partido Verde Ecologista Mexicano (PVEM), which has no members in the Coahuila legislature, has come out supporting capital punishment at the national level. "The

party's leaders understand the sentiment of the Mexican public, which is radically different than the political and intellectual classes," said Sarmiento.

While the death penalty is not likely to be enacted in Mexico in the near or even the distant future, some commentators are urging politicians to consider stronger punishment for serious crime. "The government must not turn a deaf ear [to the surge in crime]," said Raul Carranca y Rivas, a constitutional scholar at the Instituto Nacional de Ciencias Penales (INACIPE), in an interview with the Mexico City daily newspaper El Sol de Mexico. "There is a cry of despair among the Mexican population."

Citizens want stronger punishment for criminals

The public frustration about the government's inability to curb violent crime has been building for some time, as evidenced by massive demonstrations held around the country in recent years (see SourceMex, 2004-06-30 and 2008-09-03). The citizenry has made its demands for tougher anti-crime measures known in a variety of ways.

For example, organizers of the most recent anti-crime march, held in August of this year, distributed almost 1,500 fliers urging the government to consider a variety of tougher sentences, including the death penalty and life imprisonment. In addition, the flier said more military personnel should be incorporated into local law-enforcement agencies.

On its Web site, Consulta Mitofsky cited recent studies showing citizen frustration at the high rate of crime. The consulting firm says the Mexican public is willing to accept incorporating life imprisonment in Mexico's sentencing laws for crimes such as kidnapping, armed robbery, homicide, kidnapping of children, and rape.

Under current law, the maximum term anyone can receive is 50 years in prison. In some instances, prisoners only serve a portion of that sentence, as was the case with Raul Salinas de Gortari, who was convicted of masterminding the murder of his brother-in-law Jose Francisco Ruiz Massieu in 1994 (see SourceMex, 1999-01-27 and 2005-06-15).

The public anger has not escaped the attention of the Mexican Congress, which has passed a series of initiatives to combat various types of crimes. In early December, the constitutional affairs committee (Comision de Puntos Constitucionales) in the Chamber of Deputies approved a measure that modifies Article 73 of the Mexican Constitution, paving the way for the lower house to draft laws toughening penalties for kidnapping and organized crime. PRD Deputy Raymundo Cardenas, who chairs the constitutional affairs committee, said the modifications were necessary because current legislation is full of loopholes that promote impunity.

The Senate also moved on an anti-crime measure of its own, approving legislation that protects agents who work in undercover operations against drug traffickers and other organized-crime gangs. Under the measure, law-enforcement agencies will be allowed to keep the identities of detectives and investigators secret, particularly during legal proceedings. Criminal-justice experts applauded the legislation because the release of detectives' names puts them at risk for revenge killings. More than 300 law-enforcement officers have been killed throughout Mexico this

year because of their involvement in anti-drug operations. The number includes several police commanders (see SourceMex, 2008-05-21). The most recent victim was Victor Hugo Moneda, head of Mexico City's investigative police, who was killed on Dec. 8 in a drive-by shooting outside his home.

Keeping the identities of drug investigators secret might not fully protect them, but analysts say the measure is needed nevertheless. "[The Senate legislation] is a fundamental step to fight drug trafficking," said Jorge Chabat, who specializes in criminal justice at the Centro de Investigaciones y Docencia Economica (CIDE).

Drug-related violence has taken a significant toll on a wide spectrum of Mexican society this year. In a report released in early December, Attorney General Eduardo Medina Mora said 5,376 deaths in January-November of this year could be attributed directly to the drug trade. This has more than doubled the number reported in the same period last year. Medina Mora said at least a portion of the increased violence was the result of an internal rift in the Sinaloa cartel. The Beltran Leyva drug-trafficking organization, once an integral part of the organization led by Joaquin Chapo Guzman, is now battling the Sinaloa cartel for control of northwestern Mexico (see SourceMex, 2008-11-05).

Mexico is getting some help from the US in combating drug trafficking and curbing drug-related crimes. In early December, the US government released the first installment of US\$400 million of the US\$1.1 billion anti-drug package approved for Mexico under Plan Merida (see SourceMex, 2008-06-11). The funds are to be used for training and equipment in President Felipe Calderon's campaign against drug cartels.

The disbursement of the funds was marked by a signing ceremony in Mexico City, presided by US Ambassador Tony Garza, who called Plan Merida "the most significant effort ever undertaken" by the US and Mexico to fight drugs. A large portion of the funds will be allocated to the Secretaria de Defensa Nacional (SEDENA), the Secretaria de Marina (SEMAR), and the Procuraduria General de la Republica (PGR) to acquire surveillance aircraft, airport-inspection equipment, and case-tracking software to help police share intelligence. The program also supports the government's efforts to remove corrupt police officers and overhaul the country's judicial system.

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