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## **Mexican Congress Approves Landmark Legislation to Protect and Compensate Victims of Organized Crime**

by Carlos Navarro

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The Mexican Congress in late April approved two important pieces of anti-crime legislation, one that compensates victims of crime and the other that establishes protections for witnesses who testify against organized crime.

### *Victim-assistance law wins unanimous support*

The Senate and the Chamber of Deputies both unanimously approved the Ley General de Víctimas, which requires the government to provide assistance to victims of violence and human rights abuses. A key provision of the legislation is the creation of a special victim-assistance fund of close to 1 million pesos (US\$73,000).

The legislation would also create a national system to support crime victims (Sistema Nacional de Víctimas), which would develop a registry, provide support to individuals hurt by crime, and oversee compensation payments. A committee comprising representatives of victims' groups and the UN High Commissioner for Human Rights (UNHCR) would oversee the system.

The legislation also provides for the creation of a national registry of forensic data. Under the law, authorities would be obligated to conduct a search for individuals who have been reported as disappeared, including in cemeteries and other burial sites. Victims' rights organizations such as the Movimiento por la Paz con Justicia y Dignidad (MPJD) were among the main proponents of the victims' rights legislation. Poet Javier Sicilia, a founder of MPJD, became a strong advocate for victims' rights shortly after drug traffickers murdered his son in 2011. Sicilia has been a staunch critic of President Felipe Calderón's campaign against organized crime, which he says promotes further violence without solving the problem of drug trafficking ([SourceMex, April 13, 2011](#), and [May 25, 2011](#)).

In addition to dealing with drug-related killings, the measure is intended to address kidnappings, which continue to spiral out of control in Mexico ([SourceMex, Jan. 7, 2009](#), and [Jan. 5, 2011](#)).

### *Victims' rights organizations behind new law*

The MPJD welcomed the passage of the victims' rights law with open arms. "The legislation represents a milestone for the rights of victims, not only for us here in our country but for the entire region," said MPJD spokesperson Emilio Álvarez Icaza.

The MPJD said reparation to victims is defined as restitution, indemnity, rehabilitation, and guarantees that the violation will not be repeated.

The UNHCR had also offered some recommendations to Congress as it considered the legislation.

The UN agency urged Mexican legislators to consider effective policies and measures to prevent crime, protect individuals, fight impunity, and compensate victims. "During her visit to our country last year, Navi Pillay, the UN High Commissioner for Human Rights, emphasized the importance of

this agenda following her meetings with victims, relatives of victims, journalists, and human rights activists," said the Mexico City daily newspaper La Prensa.

Deputy Gastón Garza Luken, one of the chief architects of the legislation in the lower house, said the new law allows the government to respond to a "justified" social claim. "The victims of crime deserve to be protected by the state," said Garza, a member of the governing Partido Acción Nacional (PAN).

Deputy María del Pilar Torre Canales, a member of Partido Nueva Alianza (PANAL) and another chief sponsor of the legislation, offered similar comments. "Once the law is published, we can demand that the three levels of government offer better protection to victims of crime," she said.

There was similarly strong support in the Senate, which approved the measure a few days before the Chamber of Deputies. Sens. Fernando Baeza of the Partido Revolucionario Institucional (PRI) and Tomás Torres of the Partido Verde Ecologista de México (PVEM) said the legislation "lays the foundation to reconstruct the social fabric, which has been so gravely affected by violence."

"We will no longer be able to justify phrases like 'that person was disappeared,' or 'that individual was taken,' or 'they murdered him,'" said Sen. Silvano Aureoles of the center-left Partido de la Revolución Democrática (PRD). "We had heard those comments from those who had a responsibility to act and offer results."

An important element of the law is that victims now have the right to file a legal action against individuals or institutions found to be responsible for the crime committed against them. "I fully realize that there are damages that cannot be repaired with any compensation," said PAN Sen. Fernando Elizondo Barragán, referring to the psychological impact of a crime on the relatives of a victim. "But there are also ways to offer restitution, such as economic compensation, restoration of material goods, and assistance for those who have lost their means of support."

Some ambiguities in the law have not been defined. Even though the law describes a victim as "someone who has suffered directly or indirectly from a violation of human rights or the commission of a crime," there is wide room for interpretation. One problem is that many crimes are never brought to trial, and this could present an obstacle for any person who wants to prove he or she is a victim.

The government must also consider the cost of the new legislation, as it could require high disbursements from the Mexican Treasury to pay everyone who has been victimized. At least 50,000 people are estimated to have died in organized-crime-related killings since Calderón launched his campaign against drug traffickers in late 2006 ([SourceMex, Jan 24, 2007](#)).

The compensation system might also be taxed by claims from relatives of citizens of Central American countries who are victims of organized crime in Mexico. Many bodies discovered in mass graves in Tamaulipas state in 2010 and 2011 were citizens of Honduras, Guatemala, and El Salvador ([SourceMex, Sept. 8, 2010](#), and [April 13, 2011](#)).

### *Congress also approves witness-protection law*

In late April, the lower house also overwhelmingly approved a law that protects individuals who testify against organized crime. The protection applies to victims, relatives of victims, law-enforcement officials, prosecutors, and members of the judicial branch. "This means everyone who

because of their testimony find themselves in a situation of risk or danger," said the text of the law that was sent to the executive branch.

The law also creates a special fund to support witnesses with personal matters, medical assistance, and psychological counseling.

But the measure distinguishes between those who will be considered protected witnesses and individuals who are merely collaborating with authorities. The protected witnesses are those whose life is at risk as a result of their testimony.

The initiative also provides for the creation of an agency whose sole mission is to protect witnesses. The Centro Federal de Protección a Testigos would come under the auspices of the Procuraduría General de la República (PGR) but would have a high degree of autonomy.

"We developed the concept of protected witnesses for people who participate in the investigation and prosecution of organized-crime bands," said PRI Deputy Humberto Benítez Treviño, who chairs the justice committee (Comisión de Justicia).

As part of the initiative, the Congress made modifications to Mexico's transparency law (Ley Federal de Transparencia y Acceso a la Información Pública Gubernamental, LFTAIPG), allowing the exclusion of information related to protected witnesses. [Peso-dollar conversions in this article are based on the Interbank rate in effect on May 9, 2012, reported at 13.43 pesos per US\$1.00.]

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