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Carlos Navarro

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Victims’ Compensation Law Goes Into Effect

by Carlos Navarro

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In April 2012, the Mexican Congress approved an unprecedented law requiring the government to compensate victims of violent crime during former President Felipe Calderón’s six-year term in office (SourceMex, May 9, 2012). But Calderón (2006-2012) raised concerns about the measure and asked the country’s highest court (Suprema Corte de Justicia de la Nación, SCJN) to block it. The court agreed to review Calderón’s request but did not offer an immediate decision, effectively freezing the measure.

But it was only a matter of time before the initiative became law. Newly elected President Enrique Peña Nieto promised during the 2012 presidential campaign that he would enact the law, known as the Ley General de Víctimas. In early January, just a few weeks into his term, the president made good on his promise, withdrawing the legal challenge filed by his predecessor.

One of the main objectives of the new law, which consists of 189 articles and 10 sections, is to require local and federal authorities to compensate victims by covering their health- and psychiatric-care costs. Much of the funding for victim compensation would come from the federal government, but the administration did not initially specify how much money would be assigned to helping crime victims and their relatives.

The new law also mandates creating a relief fund, a national registry of crime victims (Sistema Nacional de Atención a Víctimas), and a special commission to oversee these efforts (Comisión Ejecutiva de Atención a Víctimas).

Members of the commission, who will be appointed by a special Senate committee, will include representatives of victims’ rights groups and specialists in law, psychology, sociology, human rights, and other similar fields.

"With this law, the Mexican state hopes to give hope and to comfort victims and their families," Peña Nieto said. "There are thousands of people who, unfortunately, have lost a loved one."

Enactment of the law drew its share of supporters and skeptics. A strong endorsement came from Javier Hernández Valencia, the representative in Mexico of the UN Office of the High Commissioner for Human Rights (OHCHR). "It is a necessary step, meaningful and of full legitimacy, and it's on the path to give Mexicans a state policy and effective mechanisms to ensure their rights when faced with excruciating pain and a precarious situation,” Hernández said.

Shortcomings could limit effectiveness of new law

But victims’ rights organizations, while pleased that the law is in place, wonder if loopholes could prevent compliance. For example, Alejandro Martí, president and founder of the civic organization México SOS, said the new law only helps victims of federal crimes, does not provide for sufficient participation from civil society, and does not define who is a victim.

"We know that any law can be improved, but we are concerned that this regulation does not try to meet human rights objectives," said Martí, whose son was kidnapped and murdered.
Similar comments came from Isabel Miranda de Wallace, president of the organization Alto al Secuestro. "The recently approved law fails to specify what type of victims will be protected," Miranda de Wallace said in an opinion piece published in the Mexico City daily newspaper Milenio. "Our understanding of victims ranges from the woman whose purse is stolen to the worst type of crimes, such as homicide, rape, or kidnapping."

"More importantly, [this law] is not anchored with a constitutional reform, which is necessary to prevent a situation where we could end up with nothing," said Miranda de Wallace, who formed her organization after her son was kidnapped and murdered in 2005.

"Besides the many weaknesses in the law, such as excessive bureaucracy and the involvement of many agencies...this measure has the disadvantage of being launched without any financial resources," said Miranda, who came in a distant third in the mayoral election in Mexico City in July 2012. "No money will be assigned until the next budget [for 2014]."

Other critics said it was easy for Peña Nieto to get behind the measure because the law offered him the opportunity to present a strong contrast to Calderón. "Peña arrived in office with promises that people wanted to hear: an end to violence, a period of peace and security for our country, a war on poverty, job creation, economic growth, and much more," said columnist José Gil Olmos in a piece published by Agencia de noticias Proceso (apro). "But a honeymoon is bound to be short-lived. We do not see any evidence that the wave of deaths and disappearances—within the context of the fight against organized crime—is going to change. It is evident that insecurity will not change via a presidential decree of a media campaign."

New documentary deals with disappearances

And while Peña Nieto’s decision opens the door for help for victims of violence during the Calderón years, a segment of victims are demanding immediate action: the relatives of the 25,000 Mexicans who have disappeared since the former president launched his campaign against drug traffickers in late 2006. A large percentage of those who have disappeared are young people, and that is the subject of the documentary Retratos de una Búsqueda (Portraits of a Search), which features the plight of three mothers attempting to find their sons and daughters.

The project, led by journalists Alicia Calderón and Griselda Torres, has received financial and promotional support from the Instituto Mexicano de Cinematografía (IMCINE). The 70-minute documentary, directed by Alicia Calderón, is scheduled for commercial release sometime during the second half of 2013.

The movie industry has become an alternative medium to shape public opinion. In March 2011, the documentary Presunto Culpable exposed a flawed judicial system (SourceMex, March 23, 2011). And in June 2012, the film Colosio, using fictional and real-life characters, examined the mysterious circumstances surrounding the assassination of presidential candidate Luis Donaldo Colosio in March 1994 (SourceMex, June 27, 2012).

Retratos de una Búsqueda puts the blame on authorities for the scarce information and lack of follow-up action regarding the whereabouts of tens of thousands of people who have disappeared since January 2006.

"The inability of the government to resolve their cases has led three women to search morgues, gravesites, jails, and prosecutors’ offices," said a synopsis of the movie. "They are confronted not
only by their loss and by uncertainty but also by the incompetence and complicity of Mexican authorities and especially by the social prejudice that their children were involved in ‘some sort of illicit’ activity."

In one scene, mother Natividad Guerrero is shown attempting to send a message to her 24-year-old daughter Dalia and her husband, who disappeared in Zacatecas state in September 2010 en route to the US. "I want to tell her that I have not given up and I feel helpless because I cannot do more," Guerrero says.

One of the chief complaints of the victims' relatives is the inaction and/or disinterest of authorities in helping solve the cases. Some relatives hold the hope that their loved ones are still alive but are also aware that they might not be. In this case, the relatives want closure.

A recent report in the Mexico City daily newspaper La Jornada said genetic profiles were conducted on more than 15,600 bodies between January 2006 and August 2012, and "97% of these were sent to common graves" without further tests."

"This figure represents one-fourth of the approximately 65,000 people who died directly and indirectly from drug-related violence [in 2006-2012]," said the news magazine Contenido.

The disappearances occurred during President Calderón’s administration, and the Peña Nieto administration is attempting to reassure the Mexican public that there is a new approach.

In a meeting with families of victims, Interior Secretary Miguel Ángel Osorio Chong said the administration is seeking to supplement the current missing-persons database with information from state-level investigations, which he says will help bring a resolution to the cases. "We are going to look for everyone, because this is the commitment and conviction of President Enrique Peña Nieto," Osorio Chong said.

The interior secretary said the administration’s commitment to search for missing persons was part of its effort to take into account the needs of victims of organized crime, and this was evident with Peña Nieto’s decision to enact the Ley General de Víctimas.

Osorio Chong said the administration would strongly consider creating a special investigator to follow up on the effort to find missing persons and whenever possible, prosecute those responsible for their disappearance. Similar types of offices were created to look into the murders of hundreds of women in Ciudad Juárez (SourceMex, Feb. 4, 2004, and March 1, 2006), Colosio’s murder (SourceMex, Sep. 25, 1996, and April 7, 1999), and attacks on journalists (SourceMex, Feb. 15, 2006). These special offices have generally been deemed ineffective.

But director Calderón believes the government’s efforts should go beyond merely creating an investigative office. "A truth commission would be a first step toward solving all these cases. We have to fight to make the government come up with specific policies because it has the obligation to heal the wounds it inflicted," she said in an interview with the Spanish news service EFE.

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