Congress Considers Initiatives Addressing Corruption, Code of Ethics

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The theme of ethics reform was very much on the mind of the Mexican Congress at the end of April, with the Chamber of Deputies approving a code of behavior for its members and the Senate failing to agree on an initiative that would have put a national anti-corruption system (Sistema Nacional Anticorrupción, SNA) in place.

The Senate measure ran into trouble because of disagreement on the scope of the legislation. As a result, the initiative was not approved before the conclusion of the legislative session on April 30. Senate leaders raised the possibility that the upper house might call a special session to continue working on the SNA during the summer months.

While the Senate initiative attempts to establish a clear definition of what constitutes corruption, the version submitted by President Enrique Peña Nieto’s administration and supported by the governing Partido Revolucionario Institucional (PRI) and the Partido Verde Ecologista de México (PVEM) appears to lack some important enforcement provisions for the Congress, the executive, and the political parties.

**Accountability measure trips Senate**

The opposition Partido de la Revolución Democrática (PRD) and Partido Acción Nacional (PAN), as well as several non-governmental organizations, support most of the PRI-PVEM plan. However, some differences exist. The PRI and PVEM, for example, objected to language in a provision—dubbed “Ley 3de3”—that would sanction the president for abuse of authority, conflict of interest, and coercion. The Mexican Constitution stipulates that a sitting president can only be sanctioned on charges of treason to the country.

The “Ley 3de3” would also hold federal legislators accountable for the practice of receiving moches (commissions) from companies that obtain government contracts for public works or other services. “One must remember that the moche or a similar infraction is a crime, equivalent of taking a bribe,” Alberto Carbot wrote in the western regional news wire Quadratín. “This is not the case in Mexico, a paradise for impunity and corruption.”

The “Ley 3de3” would also allow the filing of corruption charges against other elected officials, including mayors, governors, and state legislators. Under current practice, they cannot be held accountable for those infractions unless they are first removed from office.

“Corruption has caused losses of US$86 million in Mexico during the past decade,” said Carbot. “The practice has the effect of diverting millions of pesos in direct investment on projects that could improve the lives of people and communities and, according to some experts, [causes] the loss of about 2% of GDP.”

Ivonne Melgar, a columnist for the daily newspaper Excélsior, said there were some parallels between the lack of movement on the SNA and the still unresolved case of the 43 students who...
were kidnapped in Guerrero in 2014 and presumably murdered (SourceMex, Oct. 15, 2014). Critics have accused the Peña Nieto administration of blocking an investigation from a panel of experts designated by the Inter-American Commission on Human Rights (IACHR). The panel left Mexico at the end of April, citing obstruction from the administration (SourceMex, April 20, 2016).

“There are parallels in the political discussion,” said Melgar. “There is absolutely no progress on the laws that would result in the creation of a Sistema Nacional Anticorrupción (SNA) and no progress on the investigation of the 43 disappeared students.”

According to Melgar, there was wide agreement among the political parties in the Senate on six of the seven initiatives to create SNA, but a seventh initiative—the “Ley 3de3”—caused all the trouble. “Supported with more than 660,000 citizen signatures, the ‘Ley 3de3’ exposed the resistance of the political class to an effort to create accountability,” said Melgar.

Furthermore, Melgar noted that the PRI leadership was concerned that the opposition parties would receive credit for the “Ley 3de3” initiative. “Emilio Gamboa, who heads the PRI delegation in the Senate, was given the task of preventing the PAN from receiving credit for this measure, which would have benefitted its position in upcoming elections.”

Others pointed out that Peña Nieto was the one who had pushed for initiatives on corruption and public safety, neither of which moved forward before the conclusion of the legislative session. “The question is whether the administration really wanted those initiatives to pass,” said Juan Reyes del Campillo, a researcher from Universidad Autónoma Metropolitana (UAM). “What we have is corruption and a system that is resistant to being changed.”

Chamber of Deputies approves code of ethics

While the Senate failed to approve an overall anti-corruption package, the Chamber of Deputies passed a measure governing its own ethics and behavior. The initiative—which was approved by an overwhelming margin of 318 to 26, with 35 abstentions—requires members of the Chamber of Deputies “to act with respect, transparency, honesty, responsibility, and integrity.”

“This is impossible,” columnist René Avilés Fabila wrote in the daily newspaper Crónica, in reference to the new code. “There are senators, deputies, and local legislators who brag about their huge earnings and the possibilities they have to conduct business.”

“The deputies who worked so hard on this document are confident that the prestige of legislators will return,” said Avilés Fabila. “We need to tell them that legislators have never had any prestige.”

Regardless of the criticism, the authors of the initiative—Deputies Carolina Monroy of the PRI and Jorge Triana Tena of the PAN—are confident that the measure will create more transparency in the Chamber of Deputies and foster a level of civility that at times has not existed. For example, during debate on contentious issues like energy reform, legislators have resorted to taking over the podium on the floor of the Chamber of Deputies as a protest (SourceMex, Oct. 29, 2008). In 2006, center-left legislators were thwarted in an attempt to take over the podium to prevent Felipe Calderón, who had just been elected president, from taking the oath of office (SourceMex, Dec. 6, 2006). The center-left legislators argued that Calderón had stolen the election in what turned out to be one of the narrowest margins of victory in Mexico’s modern history (SourceMex, July 12, 2006).
The new code of ethics requires deputies to avoid corruption and enrichment during the conduct of legislative business. The legislators must also reject gifts that are conditioned on a vote in Congress, and must avoid any actions that constitute abuse of power.

The code of ethics also requires legislators to show decorum and respect while on the floor of the legislative chamber. According to the text of the document, legislators “cannot arrive inebriated to the sessions, they are required to stay awake, and must avoid sending tweets or text messages” during the conduct of business.

Despite skepticism about the initiative, some observers noted that the measure could be the first step to regulate the behavior of legislators.

“The approval of this code of ethics appears to be a recognition on the part of legislators of the lack of confidence and the poor evaluation that the Congress has among citizens. That is why they proposed some emergency measures, so they can present a different face to society,” said Khemvirg Puente, a researcher at Universidad Nacional Autónoma de México (UNAM).

“This is a very good first step,” added Puente. “However, what they need now is to ensure that this code becomes an instrument to regulate conduct and not simply a piece of paper.”

In a television interview with Grupo Imagen Multimedia, the PRI’s Monroy said the measure requires that sanctions be applied against those legislators who do not comply with the code of ethics. The penalties include a public or private reprimand, the suspension of daily monetary allowances, and a temporary or definitive demotion from leadership posts in Congressional committees.

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