President Enrique Peña Nieto Vetoes Anti-Corruption Legislation as Inadequate

Carlos Navarro

Follow this and additional works at: https://digitalrepository.unm.edu/sourcemex

Recommended Citation
President Enrique Peña Nieto Vetoes Anti-Corruption Legislation as Inadequate

by Carlos Navarro

Category/Department: Mexico

Published: 2016-07-13

In a somewhat surprising move, President Enrique Peña Nieto exercised his veto power on a watered-down anti-corruption initiative that the Mexican Congress approved in June. The president then returned the legislation to Congress with recommended changes. In early July, the Senate and the Chamber of Deputies approved the amended legislation during a special session.

The original measure incorporated some of the anti-corruption reforms put forward by a coalition of non-governmental organizations, academics, business groups, and legal experts via a blueprint known as “Ley 3 de 3.” However, among other things, the bill left out an important provision that required officials, elected or appointed, to declare their assets, identify their interests (including previous jobs and friendships), and offer proof that they pay their taxes (SourceMex, June 22, 2016).

The anti-corruption initiative was the second effort by Congress this year to address corruption in Mexico. In May, the Chamber of Deputies approved a code of behavior for its members, including a mandate that deputies avoid corruption and enrichment during the conduct of legislative business (SourceMex, May 4, 2016).

The president’s veto of the original legislation was a mild surprise, since it was members of Peña Nieto’s governing Partido Revolucionario Institucional (PRI) who were behind the move to weaken the initiative’s transparency provisions. However, Peña Nieto had promised in his electoral campaign that he would tackle corruption and then followed through with prosecutions on important figures (SourceMex, March 6, 2013, and June 19, 2013).

Even with these promises, Peña Nieto and members of his administration and party have been unable to escape allegations of corrupt practices, including charges that the president has favored business associates in concessions (SourceMex, Dec. 3, 2014, Aug. 26, 2015, and March 9, 2016) and that he used his powers to quash critics (SourceMex, March 25, 2015).

Peña Nieto probably had no choice but to strengthen the anti-corruption measures, given his extremely low approval ratings. According to a recent poll conducted by the daily newspaper El Universal, 63% of respondents said they disapproved of Peña Nieto’s performance, his worst score since the beginning of his six-year term in 2012. The poll—based on face-to-face interviews across the country with 1,000 people age 18 or older—had a margin of error of plus or minus 2.95% and a 95% confidence level.

Business played a role

According to observers, business organizations had the greatest influence on the president’s move. Peña Nieto made the decision to veto the original initiative two days after meeting with representatives of important business chambers, who were not only concerned about the lack of transparency on the part of public officials but also about Article 32, which would have required anyone conducting business with the government to disclose their assets.
In recommending changes to this article, the president agreed with the business groups that Article 32 went far beyond its intended goal. “The presentation of the declarations of millions and millions of Mexicans who ... earn their living honestly would in no way help combat corruption,” Peña Nieto’s legal adviser Humberto Castillejos said in a broadcast announcing the president’s decision to veto the measure.

Castillejos explained that the federal government “listened closely to the voices that argued that the measure was excessive,” particularly because the initiative proposed a cumbersome process that would render the newly created anti-corruption system (Sistema Nacional Anticorrupción, SNA) ineffective. According to critics, the government would become bogged down if it had to check the assets of every individual who conducted any sort of business with the government, including the tens of thousands of people who receive assistance via the Prospera social welfare program and applicants for government scholarships.

The veto of the anti-corruption legislation was the first since Peña Nieto took office in 2012, and the amended legislation that the president sent to Congress basically reinstated some of the strict transparency measures that non-governmental organizations and business groups had sought. It also includes an increase in fines and jail sentences for public officials convicted of bribery, embezzlement, and illegal enrichment, and the creation of an independent anti-corruption prosecutor.

The Senate quickly approved the changes that Peña Nieto proposed; the Chamber of Deputies then voted 346-82 in favor.

Business leaders praised the legislative action. “With the approval of the president’s observations on article 32 and nine other articles, we still maintain severe penalties and sanctions on businesses involved in illicit acts,” said Juan Pablo Castañón, president of the Consejo Coordinador Empresarial (CCE), a business umbrella organization.

Gustavo de Hoyos Walther, president of the employers’ organization Confederación Patronal de la República Mexicana (COPARMEX), said the approval of the amended anti-corruption legislation represented a victory for all of the organizations that participated in the Ley 3 de 3 movement, including Transparencia Mexicana (Mexican Transparency), the Instituto Mexicano para la Competitividad (Mexican Institute for Competitiveness, IMCO) and COPARMEX, among others.

COPARMEX said the SNA will usher in many beneficial changes, including shining a light on potential corruption and impunity and creating a legal and institutional framework to combat these kinds of violations. Furthermore, it said, citizens will have the opportunity to continue to provide input though a special committee that will supervise the advances in the fight against corruption.

“Let there be no mistake,” said De Hoyos Walther. “This great victory only puts us at the starting line. There are many obstacles ahead on the road against corruption.”

Along those lines, Castañón urged state governments to make the necessary legal updates to ensure that the federal anti-corruption model is replicated in every municipality and state.

**Protection for outgoing governors**

Some states did move forward with anti-corruption initiatives after the federal law was approved. However, critics say the measures approved in Chihuahua, Veracruz, and Quintana Roo were
intended to shield the outgoing governors, all members of the PRI, from prosecution for acts of corruption while in office.

The move by the three states to circumvent potential corruption charges prompted the attorney general’s office, the Procuraduría General de la República (PGR), to file constitutional challenges with the high court (Suprema Corte de Justicia de la Nación, SCJN). The motions are intended to keep the states from violating the national anti-corruption principles contained in the recently approved law. “There cannot be exceptions in the fight against corruption or local legislation to that purpose,” presidential spokesperson Eduardo Sánchez said in a joint press conference with deputy attorney general Salvador Sandoval.

Sandoval noted that the state legislatures should have waited for the new anti-corruption system to take effect because states will be required to adhere to those regulations. “In legal action that came a little late but is very clear in its intention, the PGR announced that it would seek constitutional challenges to the naming of special prosecutors and the approval of legislation that is intended to ‘shield’ Governors Javier Duarte de Ochoa of Veracruz and Roberto Borge of Quintana Roo from prosecution,” columnist Jenaro Villamil wrote in the weekly news magazine Proceso.

The PGR motion was later expanded to include actions by the Chihuahua state legislature to protect Chihuahua Governor César Duarte Jáquez.

Duarte Jáquez, who leaves office on Oct. 4, is accused of using public resources to build his personal wealth. “César Duarte fed his coffers with a big spoon,” Villamil wrote. “He increased the state’s debt to more than 42 billion pesos (US$2.3 billion). The expenditure of another 900 million pesos (US$49 million) has not been clarified to federal auditors. And at the last minute, he requested a debt of more 6 billion pesos (US$329 million), tying up resources from a highway fund through 2038.”

Duarte pushed through the creation of a special prosecutors’ office to deal with matters of corruption, which is seen as an effort to shield him from prosecution, said the PGR.

In Veracruz, Governor Duarte de Ochoa (no relation to César) also faces accusations of personal enrichment, in addition to multiple charges of impunity (SourceMex, April 24, 2013, March 12, 2014, and Feb. 17, 2016) during his term in office. According to Villamil, Duarte created a network of 21 companies between 2012 and 2013 to win state concessions totaling 646 million pesos (US$35 million) for phantom public projects. Furthermore, the governor will leave Veracruz with a public debt of more than 45 billion pesos (US$2.5 billion).

At Duarte de Ochoa’s behest, the Veracruz state legislature voted to approve the creation of an anti-corruption prosecutor’s office and a special court in the state judicial system focused on corruption. Both initiatives are seen as a way to protect the governor, who leaves office on Nov. 30, the PGR said.

In Quintana Roo, Governor Borge increased the state’s debt to 22.5 billion pesos (US$1.2 billion) and has been unable to explain to federal auditors how 1.15 billion pesos (US$62 million) were spent.

“Borge washed his hands from the matter, saying that the state legislature was responsible for this ‘package of impunity that was approved in Quintana Roo,’” Villamil wrote.

Even though he blamed the state legislature for the fiscal woes, Borge was able to persuade the legislative body to create a new prosecutor’s office to replace the state attorney general. The move is broadly seen as an effort to shield Borge, whose term expires on Sept. 25, federal prosecutors said.