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## Mexico's Chamber of Deputies Unanimously Approves Major Anti-Torture Initiative

by Carlos Navarro

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In what supporters described as a historic development, the Chamber of Deputies unanimously approved a comprehensive initiative to prevent torture and punish those who engage in this practice. The measure was approved by a vote of 417-0 on April 19, with no abstentions.

The initiative contains modifications that the lower house made to an anti-torture measure approved by the Senate in December 2016. At that time, the representative of the UN High Commissioner for Human Rights (UNHCHR) in Mexico urged the lower house to make the changes necessary to the Senate measure to make the law more succinct. It now reflects the comprehensive nature of the bill, the Ley General para Prevenir, Investigar y Sancionar la Tortura y otros Tratos o Penas Cruelles, Inhumanas o Degradantes (General Law to Prevent, Investigate, and Punish Torture and Other Abuses or Cruel, Inhuman, or Degrading Treatments or Sentences).

Deputy Armando Luna Canales, a member of the governing Partido Revolucionario Institucional (PRI), presented the 96-article legislative proposal in the name of the semi-autonomous National Human Rights Commission (Comisión Nacional de los Derechos Humanos, CNDH). He said the law was necessary because a large percentage of the Mexican population has historically condoned both the violation of an individual's human rights and the use of violence to fight crime.

Additionally, international and domestic human rights organizations have often criticized the Mexican government for consistently failing to protect human rights within its borders ([SourceMex, Aug. 13, 1997](#), [Jan. 20, 1999](#), [Oct. 31, 2001](#), [Nov. 15, 2006](#), [Feb. 20, 2008](#), and [Oct. 30, 2013](#)).

As recently as 2015, the UNHCHR reported on Mexico's shortcomings in addressing human rights violations. "UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein painted a sobering picture of the human rights situation for the many millions of people living in Mexico despite the progress being made in constitutional and legal reforms," the UN agency said on its website. "During his recent visit to Mexico, Zeid noted the gap between the advanced regulations and the reality of the human rights situation lived by Mexicans, as well as the difference between Mexico's top international commitment with human rights and the shortcomings in the domestic arena."

The measure is the first legislative effort to address torture and human rights violations in a comprehensive manner. Over the years, the Congress has approved initiatives that addressed various aspects of human rights violations. These include the creation of an autonomous human rights commission ([SourceMex, June 30, 1999](#)), the codification of human rights in the Constitution ([SourceMex, May 25, 2011](#)), and a measure requiring that criminal courts, and not military tribunals, handle trials of military personnel who commit crimes against civilians ([SourceMex, May 7, 2014](#)).

A recent report from an independent nongovernmental human rights organization, the Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), said one in five complaints about torture received by the CNDH between 1994 and 2014 were against members of the military, specifically Navy personnel engaged in civilian activities, particularly law enforcement.

## *A 'clear message' to the international community*

However, proponents see the promise of change in the new initiative. “[This law] sends a clear message to the international community that Mexico is on the path to full respect for human rights,” Luna said. He added that the law makes no distinctions, under any circumstances, and that nobody will be exempt from responsibility.

In a guest column in the daily newspaper *Excélsior*, Deputy Jesús Sesma Suárez, a member of the Partido Verde Ecologista de México (PVEM), said the law had not been approved in isolation. “We also approved companion initiatives, such as changes to the federal penal code [Código Penal Federal],” he said.

An important change in the version approved in the lower house is a requirement that responsibility of the Mexican government in a case of torture be established. This could mean determining whether a defective or incomplete investigation took place, or whether government officials or public servants engaged directly in violations of human rights. The Senate is expected to ratify the changes enacted by the Chamber of Deputies.

The law sets very clear penalties for those found to have engaged in physical or psychological torture or sexual violations. Public servants—including police officers and military personnel—will receive prison sentences of 10 to 20 years, while citizens who are not public servants are subject to incarceration periods of six to 12 years.

“Today we overcome the outdated philosophy that allowed institutional actions to co-exist with torture,” said Deputy Cristina Gaytán Hernández of the Partido de la Revolución Democrática (PRD). “If a system permits the practice of torture ... it damages the procurement of justice.”

## *Better coordination*

Under the new regulations, coordination mechanisms are to be established between the three levels of government in order to better prevent, prosecute, and punish torture.

The new law requires the creation of special prosecuting offices in every state to attend to complaints of torture. Furthermore, the government is directed to create a national registry to track complaints of torture. The new law also defines torture as the performance of medical or scientific procedures without a person’s consent.

PVEM Deputy Lía Limón said an important element of the law is that it incorporates directives, commitments, and language from international agreements against torture, such as the Stockholm Plan of Action Against Torture, adopted by the International Conference on Torture in 1996.

“The plan states that non-governmental organizations should draw up programs for legal and institutional reforms for the abolition of torture in every country,” the text of the Stockholm document reads, “They should also establish a system of vigilance so that any occurrence of torture will be detected and swiftly acted on. Special support should be given to vulnerable social groups, raising their awareness of what constitutes torture, and of their rights and how to defend them.”

Deputy Karina Sánchez Ruiz of the Partido Nueva Alianza (PANAL) said the inclusion of the observations from the UNHCR was an important step in the legislation. “Otherwise, we would have gone through the motions [in approving the legislation],” said the legislator.

President Enrique Peña Nieto's administration has expressed support for the changes. Roberto Campa Cifrián, deputy secretary for human rights in the Interior Ministry (Secretaría de Gobernación, SEGOB), said the administration views the eradication of torture as a top priority, which could result in a significant increase in sentences against those responsible.

Campa Cifrián noted that changes to the legal system require that evidence obtained through torture be thrown out. "For many years, there were police forces that considered torture as an investigative method," he said.

Given Mexico's past failings in addressing torture and other violations of human rights, there was an understandable level of skepticism. Deputy Ernestina Godoy Ramos, a member of the Movimiento Regeneración Nacional (Morena) political party, praised the initiative as a breakthrough but cited the need to end impunity. "The institutions charged with guaranteeing the safety and integrity of the people have been the main torturers," she said.

Similarly, Deputy Víctor Manuel Sánchez Orozco, of the Movimiento Ciudadano (MC) political party described the passage of the initiative as "historic," but also cited the need for sanctions to work. He said the vast majority of the complaints about impunity and torture have not been resolved.

The international human rights organization Amnesty International (AI) is taking a wait-and-see stance regarding the initiative. According to AI, Mexico already had legislation on the books that prohibited torture, but the law was not enforced. Therefore, said AI, effective punishment of violators is an essential element to ensure that the law is effective. "Otherwise, it will be just another paper promise for the thousands of people who suffer torture in Mexico," it said.

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