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Mexican Senate Delays Consideration of Key Measures to Address Corruption

by Carlos Navarro

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The Senate is dragging its feet on enacting some needed changes that would help Mexico begin to address the massive problem of corruption that continues to plague the country.

On Dec. 9, which is the UN International Anti-Corruption Day, several human rights and civic organizations, including the semi-independent human rights commission, the Comisión Nacional de los Derechos Humanos (CNDH), issued a sharp criticism of the Congress for failing to vote to implement changes mandated by Mexico's new anti-corruption laws.

President Enrique Peña Nieto vetoed a watered-down anti-corruption measure ([SourceMex, July 13, 2016](#)) that Congress approved in June 2016 ([SourceMex, June 22, 2016](#)), asking legislators to pass stronger rules. The initiative that was eventually approved includes a strengthening of the organism in charge of coordinating the fight against corruption, the Sistema Nacional Anticorrupción (SNA), originally green-lighted in 2015. Among other things, the SNA creates a system of coordination among federal, state, and local authorities, and provides for the appointment of a special anti-corruption prosecutor ([SourceMex, Nov. 2, 2016](#)).

Several committees debated measures related to the anti-corruption law, but the Senate delayed in bringing the enabling legislation for a floor vote. As of early December, just days before legislators were scheduled to go on recess for the Christmas holidays, the Senate had yet to approve a law that would enable the appointment of the head of the SNA and a new independent attorney general.

Decisions pending on new prosecutor, anti-corruption czar

The decision on the new prosecutor, who would head the independent Fiscalía General de la República (FGR), was initially marked with controversy, with many members of the governing Partido Revolucionario Institucional (PRI) and some legislators from the conservative Partido Acción Nacional (PAN) favoring former attorney general Raúl Cervantes Andrade for the post ([SourceMex, Sept. 6, 2017](#)). Cervantes settled the question in October when he resigned as head of the Procuraduría General de la República (PGR), which will be replaced by the FGR ([SourceMex, Oct. 18, 2017](#)).

In December, the Senate took another step toward ensuring the independence of the new prosecutor's office by formally eliminating a provision that would have automatically nominated the attorney general as the chief prosecutor. However, with time running out on the session, the Senate failed to vote on any nominees for the post, meaning that the decision is delayed until the next session, which begins in February, 2018.

The Senators also failed to act on several other appointments, including the head of the auditing agency, the Auditoría Superior de la Federación (ASF); the electoral watchdog, Fiscalía Especializada para la Atención de Delitos Electorales (FEPADE); and the new head of the anti-corruption agency.

Political observers suggested that the lack of decisions on these matters is a symptom of an institutional and parliamentary crisis, with senators distracted by the upcoming congressional and presidential elections. “The political parties are responsible,” a group of specialists said in an interview with the daily newspaper *El Universal*. “They see the 2018 elections as a higher priority.”

The lack of a corruption czar worried some human rights organizations, particularly the CNDH, which cited a need to act on addressing corruption in Mexico.

“The appointment of a person to head the *Fiscalía Especializada en el Combate contra la Corrupción* is an urgent matter,” the CNDH said. “The lack of a director has delayed the nomination of other important posts within the special office.”

Others, like the lawyers’ organization *Confederación de Colegios y Asociaciones de Abogados de México (CONCAAM)*, also urged the Senate to put a priority on the appointment of an anti-corruption czar.

“There seems to be no urgency to appoint an anti-corruption leader at the federal level,” said CONCAAM president Juan Francisco Alcaraz García, who noted that some states, such as Durango, Sonora, and Chihuahua, have started to put anti-corruption mechanisms in place.

The CNDH said Mexico is paying a high price for corruption—about 347 billion pesos (US\$18.2 billion) per year, or the equivalent of 9% of Mexico’s GDP.

“Corruption weakens all levels of government, all activities, all areas of public policy,” the CNDH said in a statement on Dec. 9. “This commission calls on authorities at all levels of government and on civil society to join forces to fully eradicate corrupt practices, which affect the quality of life of the people.”

The CNDH cited the Transparency International (TI) *Corruptions Perception Index* for 2016, which was released in January of this year. The TI Index ranked Mexico number 123 out of 176 countries, a significant regression from a ranking of 111 in the *Corruptions Perception Index* for 2015.

On a scale between 0 (highly corrupt) to 100 (very clean), Mexico received a score of 30 from TI (its score was 31 in 2015), along with Azerbaijan, Djibouti, Honduras, Laos, Moldova, Paraguay, and Sierra Leone, all of which shared the 123 ranking.

To compile the perceptions index, TI uses a combination of 13 international surveys and assessments of corruption, collected by independent institutions specializing in governance and business climate analysis, covering expert assessments and views of businesspeople.

“The lower-ranked countries in our index are plagued by untrustworthy and badly functioning public institutions like the police and judiciary. Even where anti-corruption laws are on the books, in practice they’re often skirted or ignored,” TI said in a summary related to the release of this year’s report. “People frequently face situations of bribery and extortion, rely on basic services that have been undermined by the misappropriation of funds, and confront official indifference when seeking redress from authorities that are on the take.”

Proposal targets presidential corruption

While the Senate failed to put forth a broad anti-corruption initiative, a group of opposition senators introduced a change to the Constitution to allow a president to face trial for corruption during his time in office and for up to three years after leaving office.

The Mexican Constitution currently allows for the prosecution of governors and most other public officials, including members of Congress and justices of the Supreme Court, via impeachment and removal from office. However, the prosecution of a president, except in cases of treason or a serious crime like murder, is prohibited under the Constitution.

“The changes to Article 108 of the Constitution propose that charges against a president be allowed during his six-year term in office and three years after he leaves office, not only for treason but also for corruption and other violations of the Constitution,” said the online news site Animal Político.

“You can’t even touch the president with a rose petal,” said Sen. Juan Carlos Romero Hicks, a sponsor of the initiative along with Sens. Ernesto Ruffo Appel, Marcela Torres Peimbert, Francisco Búrquez Valenzuela, and Víctor Herмосillo y Celada from the PAN, and Luis Sánchez of the Partido de la Revolución Democrática (PRD) and Manuel Bartlett, who is representing both the Partido del Trabajo and the Movimiento Regeneración Nacional (Morena).

A series of corruption scandals and allegations of conflict of interest have rocked members of the current PRI administration ([SourceMex, April 29, 2015](#), [March 9, 2016](#), [June 7, 2017](#)). Several PRI governors have also faced accusations of embezzlement, money laundering, and other serious charges ([SourceMex, Oct. 12, 2016](#), [June 21, 2017](#), [July 19, 2017](#)).

The proponents of the change said charges against the executive are allowed in other countries in Latin America, including Peru, Chile, Brazil, and Guatemala.

Two recent cases involved former leaders of Brazil and Guatemala. Former Brazilian President Dilma Rousseff was charged with corruption and removed from office in 2016. ([NotiSur, Sept. 30, 2016](#)). Her successor, Michel Temer, survived a corruption vote ([NotiSur, Aug. 18, 2017](#)).

In Guatemala, former President Otto Pérez Molina resigned in 2015 under pressure while impeachment proceedings were taking place ([NotiCen, Sept. 3, 2015](#)).

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