

URGENT ACTION

VOTE ON REGRESSIVE TORTURE BILL IS IMMINENT

The Mexican lower house of Congress has until 30 April to vote on the General Law on Torture. The current version of the bill has amendments that, if passed, would increase impunity for torture and undermine access to justice in relation to torture complaints.

A General Law on Torture was drafted during 2016 and presented in the Senate due to pressure from civil society given the widespread problem of torture in Mexico. This law would replace the existing federal and state laws on the issue and apply nationwide. In April 2016, the lower house Chamber of Deputies received the Senate's approved version of the bill, which in general terms was in line with international human rights standards.

In December 2016, the Chamber of Deputies made four regressive changes on the bill without consulting civil society. These changes imply: a) Article 16 would mean that state agents suspected of torture would remain in active service despite being investigated; b) Article 22 places obstacles to federal powers to intervene in state cases; c) Article 33 places onerous evidence requirements on judges to order investigations into torture, thus threatening to increase impunity for torture complaints; and d) Article 35 proposes a national torture registry that would overlook thousands of torture complaints and only register a minority of cases where criminal charges are presented. This would lead to completely false official statistics on torture. These four regressive changes were included in the Chamber of Deputies' final draft of the bill that Congress is scheduled to vote on before its term finishes on 30 April. Despite recent pressure from the UN, NGOs, Amnesty International and other international organizations, it is still not clear that these four elements will be eliminated. The bill must also urgently strengthen the National Preventative Mechanism in line with the Optional Protocol of the UN Convention on Torture. The current National Preventive Mechanism does not effectively protect persons deprived of their liberty nor prevent torture in the country and the current wording of the bill must strengthen the financial and operational independence and functioning of this Mechanism.

Please write immediately in Spanish or your own language:

- Calling on the members of Congress to ensure participation for civil society in the final discussions regarding the bill on the General Law on Torture by meeting with the organizations that were key to drafting the original bills;
- Urging them to eliminate the regressive aspects of Articles 16, 22, 33 and 35, using the Senate's version of the bill as a guide;
- Urging them to strengthen the independence and autonomy of the National Prevention Mechanism;
- Calling on them to ensure that members of Congress take into account cases, statistics, and information of survivors and victims of torture when considering discussions and voting on this law.

PLEASE SEND APPEALS BEFORE 30 APRIL 2017 TO:

Party Whip for the PRI Party

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Salutation: Dear Deputy/Estimado Diputado

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Salutation: Dear Deputy/Estimado Diputado

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 11/17. Further information:

www.amnesty.org/en/documents/amr41/5476/2017/en/

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ADDITIONAL INFORMATION

Impunity for torture and other ill-treatment remains almost absolute in Mexico, with numerous reports of beatings, near asphyxiation with plastic bags, electric shocks, rape and other sexual assault taking place during police and military operations. Sexual violence used as a form of torture is commonplace during arrests of women. Criminal charges against torturers are hardly ever presented. In April 2016, for the first time in two years, the Federal Attorney General's Office announced torture charges against five federal officials, in response to a leaked video showing police officers and soldiers torturing a woman.

In 2016 the Special Unit on Torture of the Federal Attorney General's Office reported 4,715 torture investigation files under revision at the federal level. At a national level, as many as 12,000 torture complaints were filed in 2013 alone.

Further details on the recent proposed modifications by the lower house to the General Law on Torture include: Article 16, while international standards stipulate that agents suspected of torture have the right to continue to receive a salary and their presumption of innocence must be maintained, the mere opening of an investigation against a suspected person is enough to suspend them from active service. As it stands, the proposed bill would require full criminal charges to have been presented against the agent, thus allowing them to remain in active service before this point. Given the fact that very few cases get to the point of presenting criminal charges, it is important that any agents being investigated for torture are separated from active service rather than having to wait for criminal charges to be laid. In regards to federal powers (Art 22), the bill waters down the circumstances in which federal powers can take over state investigations. These federal powers are important in cases where due to the gravity of the case, or due to a lack of independence at a state level, federal prosecutors need to get involved. However, the current bill makes the language of the senate version more ambiguous in this regard. In regards to the mandate of judges to order prosecutors to investigate torture, Article 33 of the draft bill requires that there must be "reasonable evidence" for the judge to order an investigation, which places a more restrictive requirement that currently exists, whereby judges can order investigations immediately following any complaint of torture in judicial hearings. Finally, in regards to Article 35, the bill would mean that a national registry on torture would only put torture cases on record in those cases where criminal charges have been presented. As an example, this would mean that for 2014 at a federal level, the registry would have had zero cases, and for 2015 also, despite the fact that hundreds of torture complaints were filed in these years. A national registry should register the number of complaints, the number of investigations open, the age, gender, nationality of the complainant, and other vital details to monitor the phenomenon and combat impunity.

The General Law on Torture must improve the legal framework for the National Preventative Mechanism. In Mexico it exists since 2007, integrated into the National Human Rights Commission (CNDH), in accordance with the UN Optional Protocol to the Convention against Torture. It is a very important tool to fight against torture and represents a safeguard to preserve the right of persons deprived of their liberties in the country. Nevertheless, the mechanism is not working efficiently because of the lack of adequate resources (financial and human), as well as the lack of independent members from civil society.

Further information on UA: 11/17 Index: AMR 41/5977/2017 Issue Date: 27 March 2017