

Date of Hearing: June 23, 2015

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

Eduardo Garcia, Chair

HR 5 (Cristina Garcia) – As Amended May 6, 2015

**SUBJECT:** Mexico and Human Rights

**SUMMARY:** Memorializes the Assembly's condemnation of the September 2014 forced disappearance and death of 43 college students in Iguala, Mexico. In adding its voice to the international censure of this violation of human rights, California offers support to all those in Mexico who are standing up for human rights and justice against corruption and violence. Specifically, **this bill:**

- 1) Makes findings and declarations that, among other things, state:
  - a) The 43 college students disappeared in Iguala, Mexico on September 26<sup>th</sup>, 2014 and they add to the estimated 25,000 to 26,000 people who have disappeared in Mexico since 2006 including poor migrants, indigenous people, and women and children; and
  - b) Mexico's Attorney General, Jesús Murillo Karam, announced in a televised news conference on November 7, 2014, that evidence indicates the 43 missing students had been executed and incinerated in the municipal dump of Cocula, Mexico, by the Guerreros Unidos cartel at the behest of corrupt officials; and
  - c) The Director of the American Division of Human Rights Watch described the murders in Iguala and an earlier massacre in Tlatlaya, as "the worst atrocities we've seen in Mexico in years, but they are hardly isolated incidents."
  - d) There has been international outcry regarding the deaths of the missing students in Mexico from, among others, the United Nations, the Parliament of the United Kingdom, the European Parliament, and the international human rights community.
- 2) Resolves that the California State Assembly adds its voice to the international community who has condemned the disappearance and deaths of the missing college students from Mexico as a violation of their human rights, of which the government of Mexico has failed to acknowledge, and offers its support to the people of Mexico who are standing up for human rights and justice against corruption and violence.
- 3) Resolves that the Assembly urges the government of Mexico to support further dialogue between the international community, including the United States, and human rights organizations on human rights reforms.
- 4) Directs the Chief Clerk of the Assembly to transmit copies of this resolution to the author for appropriate distribution.

**FISCAL EFFECT:** None

## **POLICY ISSUE FRAME:**

In September 2014, 43 students from a rural teacher-training college disappeared in Iguala, Mexico. While their disappearance made international news and sparked demonstrations in many areas of the world, the issues surrounding the event are not necessarily unique, according to human rights groups.

Human Rights Watch believes that more than 23,000 individuals in Mexico have become victims of enforced disappearance. These disappearances affect the individuals who are taken, as well as their families and communities. When not proactively addressed, these disappearances can also draw into question the foundation of the country's rule of law.

HR 5 asks that the California Legislature stand with others in the international community and condemn those that instigated, implemented, and withheld truth about the disappearance of the 43 students. The resolution further urges the government of Mexico to engage in further dialogue with the international community on human rights reforms.

In the Comments section of the analysis there is additional information about the circumstances and varying explanations as to what happened in Iguala. Background is also provided on follow-up actions by the federal government, independent forensic groups, and the United Nations' Committee on Enforced Disappearance, whose job it is to oversee the implementation and the investigation of potential violations under the International Convention for the Protection of All Persons from Enforced Disappearance.

## **COMMENTS:**

- 1) **Author's Purpose:** According to the author's statement, "When President Pena Nieto addressed the California Legislature, he spoke of the reforms implemented during the first months of his presidency. What caught my attention were the reforms that 'focused on safeguarding human rights and streamlining the process for citizens to use this protective tool against abuses of authority that violate their rights.' As an activist and ardent supporter of ethics in government, I was excited to hear about reforms that would 'foster accountability and transparency' throughout Mexico's government.

Passing reform laws are one thing, to actually be able to investigate atrocities and corruption is another. The message needs to be that the laws apply to everyone and that the law will also protect you and your rights. Unfortunately, the actions of Pena-Nieto's government is that it's business as usual where the influence-peddling leads the way.

We need to be clear with these countries that if we are going to engage in economic co-operation we will hold them accountable. California is an economic powerhouse, the 8th largest in the world. We are in position to insist that the Mexican government begin to seriously address the injustices they have long been associated with. Our co-operation should not come without strings. "

- 2) **Information Sources:** Information used to prepare this analysis came from a variety of sources including the United Nations, the Mexican Embassy in the U.S., The New York Times, the Associated Press, the Washington Post, teleSUR, The Wall Street Journal, The Christian Science Monitor, National Public Radio, The Guardian, and The Intercept.
- 3) **Background on the Students' Disappearance:** On September 26, 2014, 43 students from a rural teacher-training college disappeared in Iguala, Mexico, after what witnesses describe and evidence suggests was the use of deadly force by local police. In dispute is why the students were detained,

who made the call to have them detained, and what ultimately happened to the students and their physical remains.

As to the first two points, opinions vary from trying to bar the students from protesting at a local event on the mayor's orders, to preventing the students' from attending the Mexico City commemoration of the 1968 Tlatelolco student massacre, to allegations that a rival gang had been passing through and were believed to be among the students. Many sources are reported as believing there are direct ties between the local police, the mayor and his wife, and a local gang. A few sources suggest that there was at least knowledge by the federal police of the students' movements on the day in question. The last reported sightings of the students were in Iguala's city center and at the edge of the city near the highway.

The missing students were from the Ayotzinapa Normal School in Guerrero, Mexico, which is also officially called the Raúl Isidro Burgos Normal Rural School. The school is one of 16 schools established in Mexico to train rural teachers to help raise literacy rates and standards of living among the rural poor, including the high number of indigenous people who live in these areas. Some reports suggest that the disappearance of these 43 students is part of the targeted suppression of the political ideas and actions of students from the school, while others say their deaths are representative of the 20,000 to 25,000 missing persons from throughout the region and Mexico, overall.

In response to increasing public pressure, the Mexican government ultimately launched a criminal investigation into the Iguala events, they describe as being on "a scale unprecedented in the country's recent history." The investigation is reported to have included the detention of over 100 people including known gangsters and members of Iguala's municipal police. Among the top suspects are Iguala's mayor and wife, both detained and questioned. The (now former) Mexican Attorney General Jesús Murillo Karam's official explanation as to what occurred on the day the students went missing and what became of their bodies has come under significant question. Much of the evidence for the government's account relies on witness testimonies, which some believe had been extracted under possible torture or duress. Reports by independent investigators and university scientists have also pointed to discrepancies in the government's account as well as violations of key forensic protocols by federal investigators.

As of June 20, 2015, the students remain missing and are generally believed to be dead. The students' families are reported to be angry and distrustful of their government's commitment to find and disclose what happened to the college students. Many Mexicans are reported to have seen this event as symbolic of their nation's systemic problems with corruption and violence. The disappearance of the students has sparked many protests in Mexico and other areas of the world including the United States. On March 26, 2015, the parents of the missing students and thousands of supporters demonstrated at the federal elections office in Mexico City to ask that the June 7 2015 elections in the state of Guerrero be suspended.

- 4) **Discrepancies in the Investigation:** The official explanation of the students' disappearance was that they had been killed by gang members. The gang then burned their bodies at a dump, placed their remains in garbage bags, and threw the bags into a river outside the City of Cocula. The Mexican government's account, they say, is based on forensic samples sent to a lab in Austria for review, as well as their own assessment of the purported crime scenes.

Many in the public believe that the government's own accounts and timeline draw this conclusion into question. According to reports, Attorney General Murillo Karam made a December 2014

announcement that the Austrian experts were only able to determine that one fragment from one of the samples belonged to one of the disappeared students. The Austrian experts had determined that the other samples were too severely degraded to likely yield positive results. Just weeks later, in January 2015, the Mexican government announced that the other 42 students shared the fate of the student whose fragment was identified by the Austrian lab.

Not satisfied that the government's investigation would be sufficiently comprehensive, a number of the parents of the disappeared students sought help from the Argentine Forensic Anthropology Team (EEAF). The EEAF was established in 1986 with the aim of developing forensic anthropology techniques to help locate and identify the Argentinians who disappeared during the military dictatorship. Since inception, it is reported to have provided international assistance in nearly 30 countries.

Based on their own research and investigative experience, the EEAF released its report in February 2015. The EEAF report states that the organization could not confirm the official explanation of the Mexican government because the federal investigators violated their agreement to work collaboratively with the EEAF. The EEAF has said that, among other things, they were not present when the bags allegedly containing the students' remains were removed from the river nor were they given advance notice for when the government collected ballistics evidence and soil samples from the Cocula dump back in November 2014. In another example, the EEAF has stated that forensic protocols were violated when the government failed to comprehensively survey the dump site by only analyzing 30 of the 137 sections. This caused the EEAF to suggest that the government searched only for evidence that matched with its account of what allegedly occurred to the students.

Other concerns were raised in a joint report by the Scientists at the Universidad Nacional Autónoma de México and the Universidad Autónoma Metropolitana that questions the official account of what happened to the students' remains. Among other discrepancies, the scientific report states that burning 43 bodies would have required many more tons of logs, pounds of gasoline, and/or tires than could be gathered at the dump without notice and given the small timeframe described by the government's account. Further, the report states that the smoke from a fire of that size would most likely have been noticed by someone in the area.

Based on these and other incidences, many sources suggest that the level of complicity with corruption and violence is much broader than the federal government has conveyed in its account which seeks to place blame solely on local actors.

- 5) **The United Nations High Command on Enforced Disappearance:** In February 2015, the United Nations Committee on Enforced Disappearances (Committee) met to receive and consider Mexico's report on its adherence to the International Convention for the Protection of All Persons from Enforced Disappearance. Plans for this meeting appear to predated the incidences in Iguala.

According to the official summary of the proceedings, the delegation leader from Mexico opened their official remarks stating that "his Government recognized that, despite the significant progress made in promoting human rights in his country, challenges remained to be overcome, especially in view of the recent events in Iguala, which had sparked indignation and condemnation around the world. Both the Government and society of Mexico were committed to seeking the truth about those events and bringing the guilty parties to justice."

One of the areas of progress was Mexico's willingness to have the Inter-American Commission on Human Rights provide technical assistance. In discussing the role of the group of independent experts recently appointed by the Inter-American Commission on Human Rights, the Attorney General of the Republic of Mexico said that Mexico was open to constructive criticism and welcomed assistance from other international institutions, but also pointed out that work should be based on a shared agenda for advancing human rights "rather than denunciation."

The delegation from Mexico also informed the Committee on actions Mexico had taken to prevent a reoccurrence of the events in Iguala, including the announcement of 10 measures by the President of Mexico to "strengthen security, justice and the rule of laws on the prevention of torture and enforced disappearance, the establishment of a national missing persons search system and the adoption of procedures for ensuring that investigations into enforced disappearances were timely, exhaustive and impartial."

As part of the review of Mexico's report, the Committee also met with Mexican NGO Tlachinollan and some of the families of victims of forced disappearance. According to news reports, the group made formal acquisitions against the government's investigation into the disappearance of the 43 students in Iguala, as well as the other 23,000 other reported missing persons.

As a signatory to the Convention, Mexico agrees to abide by its provisions, including investigations into potential violations of its covenants. During the February 2015 meeting, the Committee acknowledged that it had formally apprized the government of Mexico that it believed it had received reliable information as to a possible serious violation of the Convention and that an official visit of one or more of its Committee members was warranted, pursuant to Article 33 of the Convention.

In explaining the scope of the Article 33 official visit and local review, one Committee member clarified "that while the Committee did not intend to focus exclusively on the events of Iguala, the manner in which the State investigated those events, punished those responsible and ensured that such crimes did not reoccur would be viewed by the entire world as a test of resolve."

- 6) **Technical Amendment:** The author may wish to clarify the phrase "of which the government of Mexico has yet to even acknowledge," page 2, lines 23 and 24.
- 7) **Related Legislation:** Below is a list of bills from the current and prior sessions.
  - a) ***SR 7 (Lara) Mexico and the Disappearance of 43 Students:*** This resolution adds the voice of the Senate to those in the international community condemning the disappearance and deaths of the missing college students from Mexico as a violation of human rights; offers support to all those in Mexico standing up for human rights and justice against corruption and violence; and urges the government of Mexico to support further dialogue between the international community, including the United States, and human rights organizations on human rights reforms. Status: Adopted by the Senate, 02/02/2015.
  - b) ***AJR 15 (Alejo) Colombia Free Trade Agreement and the California Cut Flower Industry:*** This resolution memorializes to the U.S. Congress and the U.S. President that California encourages the federal government to consider the jobs and economic role that the California floriculture industry provides California when advancing free trade agreements, specifically with Colombia.

Among other things, the resolution declares that: (1) Over 75% of domestically grown flowers are grown in California; (2) countries participating in the Andean Trade Preference Act supplied 82% of the total value of U.S. imports of fresh cut flowers in 2009; (3) Colombian exports to the U.S. increased 89% between 2002 and 2010, resulting in a rapid decline in the number of domestic flower growers; and (4) Floriculture is an important California industry that must be considered as the U.S. works to advance the pending U.S. - Colombia Trade Promotion Agreement. Status: Chaptered by the Secretary of State - Res. Chapter 122, Statutes of 2011.

- c) ***AJR 27 (Torrico) United States-Colombia Free Trade Agreement:*** This resolution memorializes Congress that the California Legislature opposes the United States-Colombia Trade Promotion Agreement, which was signed on November 22, 2006, and is currently being reviewed by the Office of the United States Trade Representative.

Among other things, the resolution declares that: (1) Violence against trade unionists persists to this day, with over 500 unionists having been murdered during the administration of current Colombian President Alvaro Uribe; (2) The Office of the Attorney General of Colombia has secured convictions in only about 5% of the over 2,700 cases of murder of trade unionists, and in the vast majority of cases, the person convicted of the crime is not the originator of the crime, but rather carried out the order to kill; (3) Defamatory remarks regarding trade unionists and human rights defenders in Colombia delegitimize the important and valued work of human rights defenders and place individuals and entire organizations at the grave risk of physical retaliation; and 4) The United Nations Special Rapporteur on Extrajudicial Executions, Phillip Alston, recently found that killings of innocent civilians by the armed forces have occurred throughout the country. Status: The resolution was adopted - Resolution Chapter 145, Statutes of 2010.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Immigrant Policy Center

**Opposition**

None received

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