

Mexico Senate OKs criminal justice reform

If approved by states, changes would overhaul police process and trials.

By James C. McKinley
New York Times

MEXICO CITY — Mexico's Senate gave final approval Thursday to a historic overhaul of this country's often-foggy criminal justice system, introducing for the first time oral trials in which lawyers will argue cases before judges and the public can see the evidence.

The Senate voted 71-25 in favor of a series of reforms to the constitution that the lower chamber, the House of Deputies, had approved last week. If approved by a majority of state legislatures, the reforms would fundamentally change the way the police, prosecutors and judges work in Mexico.

The changes would give the police the authority to investigate crimes, something until now reserved for prosecutors and special police units in their offices. The bills would also introduce for the first time the presumption of innocence for defendants and make several changes intended to speed up trials. The legislation stops short of providing for trials by jury, however.

"It's a major historical change in terms of the way in which both prosecutions and trials will take place," said John M. Ackerman, a law professor at the National Autonomous University of Mexico.

Under the current system, people often languish in jail for years after a prosecutor has decided they are guilty, waiting for a judge to determine whether the evidence supports that decision.

The judges carry out their deliberations in private and base their decisions purely on written affidavits and documents, making decisions behind closed doors with the scribble of a pen.

The system is rife with corruption, experts on Mexican law say.

Miscarriages of justice are so common and the distrust of the police so widespread that many Mexicans simply avoid reporting crimes altogether.

"Society wants a change in how jus-

tice is dealt," said Sen. Ulises Ramirez, the head of the Senate's public security commission, voting for the bill.

The passage of the amendments was a major victory for President Felipe Calderón and the conservative National Action Party. Members of the president's party broke a logjam in the Legislature last month when the House of Deputies stripped a controversial provision from the plan that would have allowed the police to search houses without a warrant.

Leftist politicians and human rights activists strongly opposed the provision, saying the Mexican police would abuse it. Some labeled it the "Gestapo law."

Even without that provision, the package of amendments faced some stiff opposition in the Senate. Some members of the center-left Party of the Democratic Revolution, or PRD, criticized a plank that would allow the authorities to hold people accused of being involved in organized crime for up to 80 days.

Some lawmakers warned that giving more power to local police and creating special rules for organized crime could lead to abuses. "The reform that has been debated in recent months contains a setback in the protection of individual guarantees and human rights," said Sen. Ricardo Monreal, a leader of the PRD.

"It's an incomplete reform, harmful to the rights of the citizens of this country."

Under current laws, the police can hold suspects for 72 hours without charging them, but in practice prosecutors have the power to charge them on the basis of little evidence and keep them jailed indefinitely. Mexico has no tradition of grand juries that vet the evidence prosecutors bring against defendants.

The switch to open trials would mark a sea change in Mexican jurisprudence. Not only would lawyers and judges have to get used to doing things in public, but for the first time the media and the public would have a full view of evidence.

The courts in Mexico often render decisions without explanation that seem odd to the general public, spurring conspiracy theories.

Some experts warned, however, that the police, judges, prosecutors and lawyers would need extensive training to

move to open trials. The package of amendments envisions phasing in the open trials over eight years.

"This will depend a great deal on the training of people," said Gerardo Laveaga, director of the National Institute of Penal Sciences. "The idea is that very few cases will go to trial, but those that do will be done in an adversarial, accusatorial trial. They will be transparent."

The presumption of innocence should also cut down on the number of people being jailed on trumped-up evidence from corrupt police officers and prosecutors, human rights groups have said.

Still, there were naysayers among leftist lawmakers who dismissed the oral trials as a smoke screen covering an attempt to hand far too much power to law enforcement authorities.

"They talk about oral trials," said Sen. Pablo Gómez of the PRD. "This is not a change. This is a judicial technicality that makes little sense. For common crimes it could be good and the states are doing it, but it is not a change. What is it then? It is nothing more than a laundry list from inept and corrupt authorities."