

The New *Ley de Amparo* ("Amparo Law")

This statute, –which I personally believe is innovative- will result in a series of legal and social changes in the medium and long term. Its purpose is, clearly, the imposition that, by the International Order, the Mexican State had to abide by incorporating Human Rights, as elemental prerogatives of the individual, which shall be enforced, on par with the already known constitutional individual rights.

Thus, the speed with which things transcend in present times and the consequent globalization eventually led in Mexico, at a Constitutional level, the incorporation of Human Rights.

It is clear, then, that the countless social and commercial links between the world and our country, motivated the need to respect these rights, for the good of humanity.

The inertia of counsels and even government officials on carrying out the *Amparo* trials in the typical way in which they had been doing must be ceased in many aspects which were inappropriate and now become irrelevant.

As we see things, the only effective way to get Human Rights to be valued, is precisely by instructing authorities, without exception, to enforce them; so that if their actions involve neglecting any Human Right, they shall instinctively act setting aside that law to respect the latter.

Based on the above and in particular, we believe that the current Amparo Law contains very transcendent aspects in substance and form.

Speed, efficiency, transparency, combined with a vision to cover the greatest number of entities and legal situations, are some of the principles that underpin this new statute. Not forgetting that, it will take some time to go beyond the problems that its application and interpretation originate.

Firstly, we are able to appreciate that its text adopts through its newly included articles, most of the jurisprudential criteria in the Eighth, Ninth and Tenth period of the Weekly Federal Judiciary Gazette that the Supreme Court of Justice had been upholding. ¿What's better than evolving case law to a statute, so that attorneys are able to consult the judicial criteria, with the practicality it entails?

Thus, regarding the supplementary application of the Law, we also believe it is beneficial to add the "*general principles of law*" to be applied by the Amparo judge, so as to when there is no explicit provision applicable to a given conflict or approach in the procedure, resolution or execution of the Amparo trial. In this way, loopholes in the late Amparo Law can be successfully filled.

Furthermore, significant changes arise with the new Amparo Law as to who will be a party in the trial: The *quejoso* (complainant) may have either legal interest, which consists in a "direct and personal" aggravation to its individual rights, or even a

legitimate interest, considering that the trial may be initiated individually or collectively.

The *autoridad responsable* (sued authority), are those that issue, execute or try to execute an act allegedly violating the complainant's rights. Common people that act on behalf of the rule of law may also perpetrate the *acto reclamado* by provoking an injury to said complainant. Many a few attorneys, whom will eventually sue people supporting their claims on the Amparo Law, will be misinterpreting the previous hypothesis, since the nature of their legal relationship will probably be other than that of the law.

The figure of *tercero interesado* (interested third-party) is introduced in order to replace the old *tercero perjudicado* (injured third-party), in order to understand more situations that will require to be heard in the process of the trial: all of those who can somehow be related to the facts of the case, particularly if the *acto reclamado* (claimed acts) consists in criminal judgments.

Moreover, with the purpose of assuring objectivity at all times of those who supervise and ultimately resolve an Amparo Trial, the causes for legal impediments were amplified; such shift is welcomed for it acts in the interest of the complainant who, even in these times, may not be accurately or timely informed of which judge will preside the Amparo case.

Additionally, carrying out and furthermore executing an Amparo judgment has become a fundamental milestone with the new statute. The *autoridades responsables* must now act very cautiously: nothing is left to their arbitrary rule.

In addition to the specific variations that exist on the *suspensión* (suspension of the claimed act) in a criminal Amparo, which tend to favor the alleged culprit by granting his or her freedom by following few requirements. This will undoubtedly produce interesting situations to be decided by Amparo judges, as may happen, for example, if two individuals or communities file an Amparo claim and are both granted *suspensiones* with contradictory effects. If such a case takes place, we believe that the new Amparo Law, as it was with the late statute, will ultimately guide the Judge to rule where the interests of the general public are best served.

In a very personal way, we deem laudable the declaration of unconstitutionality of a law that may carry out the Supreme Court of Justice; however, we did not understand the reason for exempting legal weight of this kind of statements, to tax laws. We also do not consider that the figure of "*Plenos de Circuitos*" (Circuit Courts Committee) will contribute to legal certainty when resolving contradicting judgments between Circuit Courts when if, on the contrary, the Supreme Court of Justice, as an objective entity, has had a vast experience on doing so.

With the new law enabling the use of police force in fulfilling the orders of Amparo rulings as a side note, we believe that this new statute will bring positive aspects that will be effective to achieve a greater respect for Human Rights and other individual prerogatives. However, as a product of man, it clearly has potential for improvement as time goes on, with the Amparo judges employing a trial and error

phase. We are optimistic that this fastened evolution of the Amparo Law may enrich the procedures carried out by Mexican authorities at all levels of government, so that society's purpose for establishing them may be fulfilled: the common good.

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