

changed by the State of California have continued to be the laws of California.¹⁰

Until 1880, California was bi-cultural. Its laws were written in both Spanish and English, statewide official proceedings were carried on in the same fashion. Many of the authors of the first California constitution were Mexican-American Californians. The Proclamation of General Riley was based on Mexican law and the Spanish, Roman and French laws which were in force under the Mexican regime became part of those of California.¹¹ Amparo processes would be quite in keeping with this tradition.

Amparo was created to protect the individual citizen in his fundamental rights, including his dignity as a person before the bureaucracy; and, against injudicious, illicit or capricious procedures and actions by authorities invested with power and command. Its object is to protect the individual against arbitrary action by public authorities. Wherever a guaranteed right of the individual is to be found, the Amparo process is there to protect it.

Administrative actions in Mexico are subject to review before judicial authorities or annulment proceedings before the Fiscal Tribunal. But, there still remains a vast range of administrative activity in which disputes arise, individual rights may be trampled and bureaucratic decisions aggrieve citizens. It is precisely in the areas of greatest administrative discretion that there comes into play the Mexican process of Amparo. In so doing, it offers an incisive and applicable protection against what Kenneth Culp Davis has called "the enormous mass of substantive law produced by the agencies," most of which is beyond the understanding even of lawyers.

Because lawyers are little better than anyone else in understanding the technical rules and regulations that dominate our lives they must leave the substantive law out of what they interpret as administrative law. Amparo processes provide protection within a comprehension of the seemingly obvious but mostly overlooked fact that an agency may do things that are wrong, but if it does them in the right way, administrative law is satisfied. Our current redress processes find it difficult to proceed against "proper" procedures. *Amparo* overcomes this anomaly by considering procedure. Consequently, it suggests great utility as a supplementary redress mechanism.

The characteristics of the Amparo process may be summarized as follows:

- (1) Amparo is a legal proceeding before Federal judicial authorities;
- (2) The plaintiff is always an individual;
- (3) The defendant is always a public authority or agency accused of committing or contemplating the commission of actions or decisions in the exercise of public power which imperil an individual's rights;
- (4) The plaintiff may institute Amparo processes *before* a public authority takes an action or makes a decision which threatens or imperils his rights as a person vis-a-vis the public authority by alleging facts of "imminent danger;"
- (5) The plaintiff may institute Amparo processes no later than fifteen days after a decision or action is publicly known which is alleged to be grievous to whom an individual notice must be brought;
- (6) The action may be brought in person, through an attorney or by telegram to a court of competent jurisdiction;
- (7) The lodgement of Amparo processes has the legal effect of maintaining the status quo ante the action or decision of the public authority complained against;
- (8) The petition is always on behalf of an individual and the decision of the court must always inure to the exclusive benefit of the individual concerned;¹²
- (9) Judgment is to prevent or make good the specific violation complained of;

¹⁰ The community property laws relating to marriage were taken from Mexican law. Our water laws and riparian ownership rights were taken practically en toto from Mexican law as were rules, techniques and customs relating to mining as well as important other areas of substantive and procedural law.

¹¹ California and Texas are, of course, the only two states that have been admitted to the Union without having had previously an organized territorial government. In view of the present minority status of Mexican-Americans, many of whom are among those aggrieved by actions of today's bureaucracies, it is interesting to note that while the bi-lingual status prevailed there was more leadership in all levels of government and more citizen participation in the governmental processes by Spanish speaking Americans than is now the case. Both cultures were complementary. Neither was considered a sub-culture.

¹² In Mexico, as in the United States, a corporation is legally considered to be "a person."