

(10) The procedures are brief, uncomplicated, simple and inexpensive;

(11) It is not necessary to exhaust statutory administrative remedies before commencing the Amparo process;¹³

(12) It is a process applicable against an administrative act where the law makes no provision for the suspension of the act complained of pending settlement of the dispute;

(13) Because the process applies to a particular individual in a particular situation, the remedy is for that particular case and *stare decises* does not follow;

(14) In the Amparo process, a person does not have to act *in propria persona* inasmuch as the remedy stems from the Constitution of Mexico and requires a statement of law and fact;

(15) Amparo processes lie against all administrative and executive authorities, at any level of government, without limit or exception.

In countries which follow the English juridical tradition, there is a general rule that all ordinary and other remedies must be exhausted before there can be recourse to special ones. In Mexico, when a fundamental human right is involved in the action of the bureaucracy, the aggrieved citizen is not required to have recourse to ordinary actions.

Amparo is designed to protect citizens from the despotic potentials open to bureaucrats as they administer, as well as against impersonal disregard that may occur in public administration. Because of its roots and the cultural antecedents of many of our citizens, Amparo processes should be widely understood. The search for citizen's protectors should not be exclusively among the eggs in an Ombudsman's basket. Current concerns for the necessary legal and administrative parturition indicate a necessity for greater understanding and information about alternative and complementary redress mechanisms. Our research could find no previous educational publication in English devoted solely to the Amparo. As a supplemental remedy for the redress of citizen grievances it is worthy of considerable debate. It is the purpose of this publication to provide the basis for that.

HISTORICITY OF AMPARO PROCESSES AS PROTECTION AGAINST GOVERNMENT ACTION

Basically, Amparo processes are an effective judicial check on the constitutionality, propriety and legality of acts of public authorities. It is Mexico's method of preventing public officials from treading on the rights of individual citizens when discharging official duties in executing government programs or providing public services. It is a way in which little man confronts big government.

The sources of Amparo are the subject of controversy. It is possible to trace it back to Roman law, to see its origins in the law of Aragon or in colonial law, or to connect it with *habeas corpus* or the constitutional law of the United States. Mr. Benjamin Laureano Lune of the International League for the Rights of Man contends that Amparo processes were known in Mexico before the era of Columbus when "there were courts that issued their judgments in accordance with the law evolved by custom and experience which protected the citizenry against any acts by the authorities in violation of the principles of personal status."

America's leading writer on the redress of citizen grievances, Walter Gellhorn, has aptly said: "Although current, the problem itself is far from having been freshly discovered. Nor is it the sole concern of countries that count themselves 'modern' or 'enlightened.' Every social grouping, no matter how primitive, maintains channels through which questions and complaints flow."¹⁴

The only conclusion to be drawn from attempting to trace Amparo's lineage through centuries is that a similarity exists between institutions, which, although unknown to each other, pursue similar ends.

In modern times, Amparo as a means for the redress of citizen grievances in Mexico was inspired by Alexis de Tocqueville's *Democracy in America*, in its 1836 Spanish translation from the original French, by Sanchez de Bustamante. The Mexicans of that time were not familiar at first hand with the system of constitutional protection of individual rights in the United States. They could not, therefore, directly adapt that system. Taking as their basis the information

¹³ This concept from Mexico later finds its way into the 1948 UN General Assembly *Universal Declaration of Human Rights*, as Article 1: "Everyone has the right to an effective remedy by competent tribunal for acts violating the fundamental rights granted to him by constitution or law."

¹⁴ Gellhorn, Walter, *Ombudsman and Others*, Harvard University Press, Cambridge, 1966, p. 1.