

it is an "extraordinary constitutional remedy" (*remedio constitucional extraordinario*). *Fundamentally, it is a writ granted by a Federal court to restrain or enjoin action as against any decision of an administrative authority exercising governmental powers—federal, state, or local—in Spanish "Autoridad."* It is based on a simple statement of facts, much after the fashion of motions in our courts of law. It is an individual and personal right of action and, therefore, cannot be brought on behalf of third parties in a representative suit.

This does not mean that a person must assert his remedy *in propria persona*. In most instances, the aggrieved citizen is represented by an attorney inasmuch as this is a remedy which arises directly from the Constitution which requires a statement of law and fact.

The Amparo process comprises four stages: (1) submission of the application, (2) call for reports from the responsible administrative agencies, (3) constitutional hearing before a Federal district court, (4) decision. In very serious cases, there is an additional way of correcting deficiencies where it appears that the rights of an individual, as a person, have been violated. This is the so-called interlocutory application for suspension of the administrative action or decision, in Spanish "*incedente de suspension*." This can be submitted together with the application for the Amparo process in cases of extreme urgency or "imminent danger" and the matter can be decided immediately, if necessary by telegram.

Inasmuch as the constitutional rights of a specifically aggrieved person are involved, it is asserted in the Amparo procedure that an individual right has been violated. If the decision of the Court states that a particular person's individual right or freedom has been violated that decision cannot be used as a precedent for other cases, under the doctrine of *stare decises*, as in administrative law in the United States. This characteristic of Amparo encourages judicial tribunals to grant speedy remedies for the *particular case*, to protect the aggrieved party involved, without qualms by the Judge fearful of having to be bound by or grapple with the moral problem of whether the particular decision is going to be sweeping and affect a multitude of other persons. Amparo decisions are not held to enunciate a general statement or principle of law.¹⁶

Since the remedy of Amparo is written directly into the Mexican Federal Constitution, the action or motion is to a Federal District Court Judge. The defendants, who are referred to as the Responsible Parties "*Autoridades Responsables*", are always Federal state or local instrumentalities. None are beyond the reach of Amparo. It applies to all administrative agencies without limit. A necessary party to the action, and named in it by the aggrieved party, is the Federal District Attorney. Third parties whose rights may be affected may be named and brought into the action by the aggrieved party, or they may independently intervene as parties to the action if their rights are directly involved.

Amparo is not referred to or called a civil action or civil proceedings. It is differentiated from a civil action. The proceedings are called a "Constitutional Action" (*accion constitucional*).

The specific object of an Amparo is to maintain the "status quo," by a temporary restraining order. It places the parties where they were prior to the announcement of the bureaucratic decision, administrative action or intervention of the authority whose action has been restrained and against whom the grievance is brought. It is without prejudice to the rights of the aggrieved person to obtain, after a full hearing, a permanent injunction or mandate. The individual rights of the aggrieved person which are protected arise from his constitutional guarantees.

The restraint is sought and Amparo will hold against (1) the "abuse of power;" (2) the unconstitutional enforcement of a law; (3) against a valid law which is being enforced in an unlawful manner; or, (4) where there is an absence of procedural due process. Individual rights are those of life, liberty, and property, their quiet pursuit and more importantly, their protection.

Individual rights are referred to by the Supreme Court of Mexico as "human rights."¹⁷ These are set forth in Article 103 of the Mexican Constitution. Corpora-

¹⁶ The danger of sweeping generalizations has occasioned confusion in California. State District Courts of Appeal sometimes come to opposite conclusions under similar statements of fact, followed by the aggrieved parties insisting that the conclusion which supports their case is the one which must be followed under the rule of *stare decises*. This is one of the unstated reasons that not all appellate decisions are now being printed, as formerly was the case.

¹⁷ *Mexican Supreme Court Decisions*, Tomo XIV, p. 63.