

tions are considered as persons possessed of individual rights, as are the various states of the Mexican Union in their proprietary capacities. The Federal Government itself, however, does not have the remedy of Amparo available even in its proprietary capacity.

AMPARO REMEDY NOT INTENDED TO VACATE LAWS

The purpose of the Amparo is to great immediate relief to a specifically aggrieved party. In an Amparo proceeding the Court is without power to declare as unconstitutional a general law, with one exception hereinafter referred to as to a "class" of individuals.¹⁸ If the general law, however, is self-executing and results in sanctions immediately and pecuniarily affecting an individual of a specific class in his property or personal rights, the self-executing portion of the law as it affects the aggrieved party is suspended and enjoined. The aggrieved party or parties must show injury or peril, imminent or present, under the general law, or an order issued pursuant to said law, otherwise the Amparo is said to lack subject matter, *Carece do materia*, and may be dismissed.¹⁹

If the provisions of a general law are not self-executing, it is held that an abstract situation exists. The petition for Amparo is held to be premature, and Amparo processes will not avail. An unconstitutional law is presumed to be void and of no effect. An Amparo versus a general law is not permissible, since this would permit a declaration relative to its constitutionality, in an Amparo proceeding.²⁰

Amparo is not against the law but is against certain acts, entities or persons who seek to act pursuant to the law. It is not addressed to substance as much as to procedure. The law itself is not considered attackable. It is the overt acts committed in pursuance of or under color of law that are singled out. This is in keeping with the concept that it is the individual who is involved, it is his specific facts which are set forth in his statement seeking Amparo.

AMPARO REMEDY SUMMARILY GRANTS DUE PROCESS TO INDIVIDUAL

In the State of California the Administrative Procedures Act sets down certain procedural steps which must be exhausted by an aggrieved citizen, in certain types of administrative proceedings, before he can get into a court of law to test rules and regulations or actions which allegedly have invalidly impinged upon his fundamental constitutional rights. This legislation does not, however, apply to all administrative bodies, and sometimes there is no administrative remedy of review.

Due process is required in Mexico in all administrative proceedings, by reason of the constitutional guarantees given to the individual, such as notice, the right to be heard, and the right to defend oneself within the administrative proceedings. Unless this grievance machinery exists in connection with all executive/administrative actions, individual guarantees of the Mexican Constitution are said to be violated, and Amparo becomes available to enjoin the proceedings until compliance with due process and hearing is first obtained.²¹

Since the remedy of Amparo arises from basic Constitutional rights, it is a grievance mechanism that may not be enjoined or set aside by any court or law. Once the petition has been filed, it must be summarily processed and disposed of by the Court until judgment is pronounced. Nor is it incumbent upon the petitioner to place the matter on the calendar. Since it is of primary public interest that individual guarantees be protected, it is the inescapable duty of the Court to give it preference on the calendar and have the matter set and heard forthwith. The proceedings are considered as "special" proceedings and are not ordinarily susceptible of delays.

The ability to get action fast and to preserve the status quo until that action is followed to its conclusion is one of the most appealing and interesting features of the Amparo process. There is little point in applying the cumbersome common law practice of pleading by precedents to the technicalities of administrative laws and regulations. Long, drawn-out court proceedings or extensive waiting periods because the court calendar is overcrowded are avoided. As stated, the

¹⁸ Article 107, Constitution of the Republic of Mexico.

¹⁹ *Ibid.*, Tomo XXIX, p. 1537.

²⁰ *Ibid.*, Tomo XXIII, p. 985.

²¹ Article 14, Constitution of The Republic of Mexico.