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DERECHOS
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ESTRATÉGICO
MEXICANO

MEXICO

VICTIMS OF CORRUPTION: DAMAGE REPARATION AND LEGAL STANDING

INTERNATIONAL DATABASE

2022

SOURCE: DERECHOS HUMANOS Y
LITIGIO ESTRATEGICO MEXICANO

VICTIMS OF CORRUPTION WORKING GROUP

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1. Legal Standing

1.1 Legal standing for civil society organisations and/or citizens in corruption-related cases

Civil society organizations, human rights defenders and individual citizens could have legal standing in corruption-related cases. Although it is not a standard generally recognized by authorities in Mexico and there is no specific regulation regarding legal standing for those persons.

1.2 Type of Cases

- Criminal
- Constitutional
- Administrative

1.3 Legal basis under which citizens have legal standing

Citizens (individuals)

Mexico has regulated a system to report acts of corruption in an administrative sphere and another regarding the commission of criminal offenses. By this means, a whistleblower (individuals) should have always legal standing in corruption-related cases if he/she/they report the act of corruption before Mexican authorities.

There are different ways by means of which individuals have legal standing and could initiate or participate in a procedure:

- a) Criminal

In terms of the criminal legislation (National Code of Criminal Procedures)¹, whistleblowers are those persons who, in their capacity as victims or offended parties, report facts of public officials of the Public Administration or individuals which may constitute crimes, as long as the report contains evidence. Reports

¹ See for better reference articles 105, 108 and 221 to 223 of the National Code of Criminal Procedures.

could be made anonymously or under identity secrecy/confidentiality. Regarding the mechanisms through which whistleblowers may report acts of corruption, the Code provides that complaints may be presented orally or "by any means" before the competent authority, the Prosecutor's Office specialized in combating corruption.

Regarding the legal standing of citizens for criminal actions in corruption related cases:

- i. Any person who has knowledge of the crime can file a criminal complaint, which will enhance the Public Prosecutor activity to become aware of the crime and decide regarding the investigation and/or prosecution. The criminal charges can only cover crimes that are prosecuted ex officio, including in those corruption related cases as according to federal legislation.
- ii. The victim or offended party has the right to independently initiate a criminal action (either directly to the judiciary, or through the Public Prosecutor), provided that the following conditions are met.

In addition, the Federal Law for the Protection of Persons Involved in Criminal Proceedings provides for assistance and security measures to ensure the protection and care of whistleblowers in a situation of risk or danger, such as psychological, medical or health treatment, free legal advice (including for the management of procedures), economic support, safeguarding of physical, psychological, patrimonial or family integrity, surveillance, transfer, custody, temporary accommodation and relocation.

In 2018, the General Prosecutor's Office created the website "Centro de Denuncia y Atención Ciudadana" (Center for Complaints and Citizens Attention) for citizens attention, through suitable mechanisms to file complaints, request guidance and information both at the federal level and advice in ordinary jurisdiction. In practice, the effectiveness and results of the website are unknown.

In addition, the Mexican legal system recognizes the importance of compensation of damages² and the other rights of the victims or offended parties³ including the right of access to prompt, free, and impartial justice; the right to a legal advisor; the prohibition of discriminatory treatment; the right to receive all available evidence; the right to intervene in the entire criminal procedure; and the right to have their rights restored and receive the repair of the damages suffered.⁴ Typically, the victim or the offended party will appoint a legal representative who will intervene in the criminal proceeding to represent their interests.⁵ The Mexican Supreme Court of Justice has determined that victims may challenge the prosecutor's failure to prosecute through amparo proceedings, due to the right to reparation that victims are entitled to if there is a conviction.

b) Administrative

Citizens who wish to file a complaint for administrative responsibility related to irregularities committed by federal public servants in the performance of their duties and private persons that are related to the State or Administration may address the report to the Internal Control Body of the agency or entity to which they are attached. If the complaint or claim is against a public servant attached to the Ministry of Public Administration or against the heads of the Internal Control Organs, it is the Internal Comptroller of the Ministry of Public Administration who handles such complaints and denunciations.

In terms of the General Law of Administrative Responsibilities⁶, whistleblowers are those persons who report facts of public officials of the Public Administration or individuals related to the State or Administration, which may constitute administrative misconduct (serious or not serious), as long the complaint contains data or indications that indicate the act of corruption.

² Article 2 of the Mexican National Code of Criminal Procedure

³ Article 108 to Article 111 of the Mexican National Code of Criminal Procedure

⁴ Article 109 of the Mexican National Code of Criminal Procedure

⁵ Article 110 of the Mexican National Code of Criminal Procedure

⁶ See for better reference articles 91 to 93 of the General Law on Administrative Responsibilities.

In addition to establishing the possibility of anonymous complaints, it provides the obligation of the investigating authorities to keep the identity of the complainants confidential (of those that are not submitted anonymously). Regarding the mechanisms through which whistleblowers may report acts of corruption, the law provides that complaints may be submitted in physical format, on the digital platform determined by the National Anti-corruption System or electronically to the investigating authority (Ministry of Public Administration).

Regarding whistleblower reporting and protection mechanisms, there is no specific law on the matter, and now there are bills pending to be discussed in the Mexican Congress (administrative matters). However, at the end of 2020, the Protocol for the Protection of Whistleblowers⁷ was published, and the platform of the Internal and External Citizen Corruption Whistleblower System⁸ was enabled, which complements the Integral System of Citizen Complaints of the Federal Public Administration (by its acronym in Spanish “SIDECE”).

The whistleblower platform allows anonymous complaints to be made, and to request protection measures which, according to the Ministry of Public Administration, have already been granted in the past. In accordance with the Guidelines for the Promotion and Operation of the Citizen Corruption Whistleblower System, the jurisdiction of the System includes bribery, embezzlement, and diversion of public resources.

The Platform of Internal and External Citizen Corruption Whistleblowers allows any citizen or public servant to report acts of corruption with the guarantee of confidentiality, anonymity, and the possibility of following up on the report to strengthen the investigation files.

c) Constitutional protection

The “amparo” lawsuit or “amparo”/Constitutional proceeding is the legal remedy in the Mexican framework to demand the Constitutional protection in face of the

⁷ Published in the Official Gazette of the Federation on October 19, 2020.

⁸ Available at: <https://alertadores.funcionpublica.gob.mx/>

violation of human rights and is the most powerful tool available to the governed to demand to Mexican authorities the respect of human rights.

The effective defense of human rights is a constitutional principle that ensures the permanence of the rule of law and strengthens substantive democracy in a country. This defense can be promoted by individuals who are directly affected by the human rights infringements, or by individuals that, due to their special situation before the legal system, have the aim and institutional commitment of defending diffuse and collective rights.

The procedural nature of the amparo proceeding presupposes the existence of a grievance. Since the Amparo Reform in 2012, the new Amparo legislation establishes that the complaining party⁹ -the person who files the amparo proceeding- proves that he/she/they have a (i) legal interest (subjective right), or (ii) individual or legitimate collective interest, the latter figure allowing to challenge, among other issues, diffuse rights. Thus, with the new requirements of legitimacy or legal standing for the victims of human rights violations and based on the extensive protection offered by Article 1 of the Federal Constitution, it is no longer acceptable to declare the amparo proceeding inadmissible for this reason¹⁰; however, it is still an observed and common practice among several Judges within different districts.

Although the legitimate interest is a complex figure, with the laws and regulations available, it is not possible to create a unique and closed concept. The Supreme Court has established that in order for the plaintiff to be able to demonstrate that he/she/they have a legitimate interest -and not a simple one- he/she/they must prove the following¹¹:

- (i) The existence of a bond of rights, which implies a relationship of the plaintiff with the fundamental rights that he alleges have been violated

⁹ Article 5. The following are parties to the amparo proceeding: I. The plaintiff, being the party who claims to be the holder of a subjective right or of a legitimate individual or collective interest, provided that he alleges that the norm, act or omission complained of violates the rights set forth in Article 1 of this Law and thereby produces a real and present affectation to his legal sphere, either directly or by virtue of his special situation before the legal order (...).

¹⁰ Ídem.

¹¹ Jurisprudence thesis P./J. 50/2014 (10a.). [J]; 10a. Época; Pleno; Gaceta S.J.F.; Libro 12, Noviembre de 2014; Tomo I; Pág. 60.

without the need for a subjective right expressly granted by the law, but a qualified, current, real and legally relevant interest.

- (ii) Principle of grievance, which implies that the violation in the sphere of the complainant is reasonably appreciable and not a mere possibility.
- (iii) Specific legal relationship, which is the situation of the plaintiff with the object of the claim; this situation must be special and differentiated from that of the rest of the persons.
- (iv) Legal benefit, i.e., a positive effect in the legal sphere of the plaintiff resulting from the eventual granting of constitutional protection.

As of the aforementioned standard, the right of access to justice of citizens, victims of corruption, and human rights defenders (the right to defend human rights, among others, the right to live in an environment free of corruption) can only be satisfied to the extent that they can effectively resort to the amparo proceeding to claim human rights violations, despite the legitimacy of the plaintiff, whether it is as a citizen or human rights defender with “legal interest” (subjective right) or “legitimate interest”.

Thus, with respect to standing for constitutional protection over acts of corruption, the Supreme Court has recognized the protection of the human right to live in an environment free of corruption.

The Eight Judge of District in Administrative matters in Mexico City, in the resolution issued in the amparo trial 1311/2016, recognized the "fundamental right of citizens to live in an environment free of corruption in which all public officials perform their work with honesty, ethical honesty and transparency", for which it was stated that in the Mexican legal order it had been recognized that all state authorities have the obligation to carry out the functions entrusted to them, not only with efficiency and diligence but with honesty and transparency -accountability-, mostly, in matters related to the public resources they are in charge of and that have been obtained from the contribution to public spending made by all Mexicans -culture of legality.

Civil society organizations and human rights defenders

Despite the current legal status, criteria, and jurisprudence regarding individual complainants representing the public interest, Mexican courts have been less willing to recognize that civil society organizations do have legal standing, despite the development of clear and open scope of the legal standing standard -legitimate interest-, at least for civil society organizations –standards regarding human right defenders’ legal standing have not been recognized by the Supreme Court or Collegiate Court in jurisprudence or precedent–. However, mostly through strategic litigation cases, Courts have been increasingly finding that CSOs are victims of corruption.

a) Criminal

Civil society organizations have requested recognition as victims of corruption crimes and the recognition of legal standing to file amparo proceedings in cases of human rights violations derived from acts of corruption. However, in most cases, Courts have denied CSOs the status of victim on a criminal perspective. In the Amparo under file number 22/2019, the Sixth Judge of District in Criminal Matters recognized TOJIL –an organization in Mexico– as victim of corruption within the investigation of former governor Javier Duarte, although said status was revoked by a Higher Court. TOJIL has requested the intervention of the Inter-American Commission on Human Rights –pending–¹².

Organizations in Mexico have managed to place the human rights agenda and the legal recognition of "victims of corruption" in the context of economic crimes such as bribery and corruption.

The struggle for the recognition of the legitimacy of civil society organizations in the fight against corruption has been an arduous and joint effort. It is necessary that the Judiciary and Prosecution Offices in Mexico develop standards on anti-corruption matters to ensure the recognition of corruption victims from a

¹²

e.g., https://victimasdecorrupcion.files.wordpress.com/2021/03/recurso-cidh-caso-duarte_-22_01_2021-vf1.pdf ; <https://victimasdecorrupcion.files.wordpress.com/2020/01/0767000024171789027ast.pdf>.

criminal perspective and the legal standing to guarantee the respect of humans rights and the recognition of the fact that corruption, in addition to constituting various types of crimes, amounts human right's violations.

b) Administrative

One of the requirements in any proceeding before the Judiciary or anti-corruption agencies in administrative matters is the legitimacy of the individual, organization, or company. It is necessary to justify the right they have in order to initiate and continue with such proceeding. The right could derive from the fact that the promoter is who directly holds the right, who has special powers to represent a person or who has a special position in terms of legislation to allege the violation of individual or collective rights.

Civil society organizations that demonstrate to have legal standing to allege the violation of rights could start proceedings before administrative authorities or file a lawsuit before the Federal Court of Administrative Justice.

Civil society organizations are not restricted to access to reporting mechanisms to report the commission of corrupt acts and/or to file administrative complaints regarding liabilities of public officials or private persons that are related to a public function. The complaints are originally addressed by the Internal Control Body of the agency or entity to which they are attached. If the complaint or claim is against a public servant attached to the Ministry of Public Administration or against the heads of the Internal Control Organs, it is the Internal Comptroller of the Ministry of Public Administration who handles such complaints.

The General Law of the National Anti-corruption System contemplates the attribution of the Citizen Participation Committee to establish a network of citizen participation and to propose articulation mechanisms between civil society, the academy, and citizen groups¹³. Although this is not an express recognition of administrative legitimacy, it adds to the involvement and participation of civil society in administrative matters within the National Anti-corruption System, and

¹³ Article 21, frac. IX and XI of the General Law of the National Anti-corruption System.

it can stand as a basis of legitimacy for the participation of civil society in the supervision of the due functioning of the National Anti-corruption System in future claims of jurisdictional nature.

c) Constitutional protection

The current regulation of legal standing for civil society organizations is known as “legitimate interest.” It is the result of a new constitutional paradigm introduced in 2011, regulated in the Amparo Law of 2013, and interpreted in an important number of cases by the Supreme Court. The legitimate interest has opened a path for civil society organizations’ activity to hold governments accountable and introduced a new legal perspective for the defense of collective rights.

As a result of the implementation of the concept of “legitimate interest” in the amparo proceeding, the understanding of supra-individual rights has been modified to recognize them as rights that can be enforced –individually or collectively– through constitutional proceedings. This broadens the scope of protection of a series of rights –such as the right to live in an environment free of corruption and the right to defend human rights– that for a long time were left behind. The role of civil society organizations in the defense of these interests is crucial in any constitutional democracy.

However, there are several technical and practical difficulties that Courts have set to admit the legitimate interest of human rights defenders and civil society in the amparo proceeding. It is a common practice that Courts in Mexico reject a lawsuit or dismiss a trial based on the lack of CSOs legitimate interest.

The basic standard regarding legitimate interest for the Mexican amparo is applicable to any plaintiff despite of character or personality. Civil society and human rights defenders must prove the following¹⁴:

¹⁴ Jurisprudence thesis P./J. 50/2014 (10a.). [J]; 10^a. Época; Pleno; Gaceta S.J.F.; Libro 12, Noviembre de 2014; Tomo I; Pág. 60.

- (i) The existence of a bond of rights, which implies a relationship of the plaintiff with the fundamental right that he/she alleges has been violated with a qualified, current, real, and legally relevant interest.
- (ii) Principle of grievance, which implies that the violation in the sphere of the complainant is reasonably appreciable and not a mere possibility.
- (iii) Specific legal relationship, which is the situation of the plaintiff with the object of the claim; this situation must be special and differentiated from that of the rest of the persons.
- (iv) Legal benefit, i.e., a positive effect in the legal sphere of the plaintiff resulting from the eventual granting of the constitutional protection.

Under the standards and the criteria developed by the Mexican Supreme Court, citizens, civil society organizations and even the Citizen Participation Committee of the National Anti-corruption System, upon proving a legal or legitimate interest, may request constitutional protection through the amparo proceeding in relation to corruption cases.

Under this logic, Courts have recognized that human rights violations impact the legal sphere of human rights defenders, which legitimizes their access to justice to claim reparation for such violations. In terms of the amparo trial, this implies having satisfied the requirement of legal standing to file the amparo under the argument that if an act or omission of the authority violates the human right that a given defender is dedicated to protecting in the development of their activities, this is enough to consider that it creates a different damage from that of the rest of society and, therefore, has a legitimate interest and legal standing in the trial.

Mexican Judiciary has also developed an unproportionate standard to verify the legitimate interest of civil society organizations in human rights violations cases and corruption matters. According to the Supreme Court's precedents, civil society, in addition, shall give evidence of the following¹⁵:

- i) The argued violation is to a collective right.

¹⁵ Amparo trial in review number 323/2014, resolved by the First Chamber of the Supreme Court of Justice of the Nation. The case resulted in thirteen isolated theses, as well as the concurring votes of Justices Cossío and Gutiérrez.

- ii) The violation of the right or rights have the potential to frustrate CSOs social purpose and have a negative impact on the public good or collective right to which the association or society has “committed” in its organization.¹⁶
- iii) The verification of the deployment of activities of CSOs aimed at achieving its purpose and "institutional commitment".
- iv) The existence of a qualified relationship with the violated right and CSOs’ social purpose and institutional commitment.¹⁷
- v) the citizenship status of the associations.

The articles of incorporation of CSOs would be sufficient to prove their legal standing. Courts and administrative authorities should recognize the principle that CSOs that defend human rights were incorporated for that only purpose and that that lack of recognition of their legitimate interest within a procedure or a trial is a violation of the right to association constitutionally granted.

The social purpose of CSOs could include general activities such as the defense and protection of human rights and the rule of law, or specific activities such as the defense of transparency, accountability and the fight against corruption, or the defense of the rights and interests of vulnerable groups or the environment.

To prove legitimate interest, based on the statutes and activities of the plaintiff, Courts, and other authorities must assess whether the organization and its members have been able to demonstrate good faith, loyalty, and adherence to the cause that originated the acts complained of, as well as their commitment to fight against irregular acts and defend human rights in Mexico.

¹⁶ Which may occur in the following cases:

a. That by means of the history of acts and conduct of the association, it is proven that the private legal entity filing for amparo has an institutional commitment to the protection of the collective right or public (or quasi-public) good that proves that an affectation to the constitutional right or good is, in some sense, an affectation in a broad sense to its corporate purpose.

b. In the absence of a history of acts, as in the present case, because the complainant civil association was recently created, the amparo judge must carefully scrutinize the constitutive document of the corporation to determine whether there is an institutional commitment to the protection of the collective right or the constitutional public good in favor of which the amparo is being sought.

c. In the application of this standard, it is necessary to consider that it is not a matter of confusing the social purpose with the affectation, since this is not enough.

¹⁷ Jurisprudencia I.10°.A.7 K (10ª.); registry number 2016932, 10th period, collegiate tribunals, Gaceta del Semanario Judicial de la Federación, Libro 54, May 2018, Tome III, p. 2585

The admissibility of an Amparo proceeding by CSOs must arise when the violation of a collective right is alleged, and acts that have a negative impact on the collective right are being fought against. This should be recognized whether the institutional commitment derives from the CSO's history of conduct, from its articles of incorporation, from an interpretation of both, or from the fact that the standards regulating the human right provide that the associations have a guaranteed right to participate in the defense of the collective right.

An important part of the cases that have allowed Mexican Courts to positively delineate precedents related to the legitimate interest of civil society organizations were filed as strategic litigation cases. There are other cases of social impact that Courts have heard, whose resolutions demonstrate the confusion that prevails with respect to a legitimate interest, maintain the ambiguity of that term and sustain the regression on the issue in question.

Regarding this evolution and development of the standard of the legal standing of civil society and associations, some of the main judicial precedents that started presenting solutions to the jurisdictional questioning around the legal standing of CSOs and enabled these criteria are summarized here:

i) Case "Aprender Primero"

In this case, a CSO whose social object is the defense and promotion of the right to education, claimed in an amparo proceeding the omissions of the Superior Audit Office of the Federation consisting on the failure to initiate liability proceedings against public servants who had participated in the unduly diversion of public resources destined to education.

The Supreme Court of Mexico recognized the legitimate interest of the plaintiff to challenge acts and omissions of authority that violate the right to education since this impeded the achievement of the social purpose for which it was incorporated.

ii) Case "Artículo 19"

The Mexican Supreme Court recognized that the plaintiff (a CSO) had a legitimate interest since it had a special interest in the defense and promotion of freedom of expression, while the omission it claimed affected its ability to comply with the purpose for which it was incorporated. It was determined that the issuance of the omitted legislation would bring a determined, current, and certain benefit to the complainant since it would be able to fully comply with its object.

The Supreme Court established that "...the judge must conduct a comprehensive study of the nature of the right, the social purpose of the association and the alleged affectation."

A range of new possibilities for challenging acts or omissions that harm supra-individual interests and objective rights has opened. However, this does not imply an absolute opening for any person to resort to the amparo proceeding for any reason. Something more than a "simple interest" is required. The Supreme Court has considered that since the legitimate interest is highly complex, the categorization of all possible situations and assumptions requires a case-by-case analysis.¹⁸

Notwithstanding the legal provisions and judicial precedents regarding the legitimate interest of civil organizations to challenge acts of authority that are considered to violate human rights, there is resistance from the authorities and the Courts to admit lawsuits or issue resolutions in cases where the plaintiff is a civil society organization. As a result, thousands of lawsuits and petitions filed by CSOs have been dismissed by the courts due to the alleged lack of legitimate interest, which has meant that human rights violations are not analyzed – due to merely technical or procedural issues – and therefore these cases escape judicial scrutiny. This creates barriers that limit the right to association and the right to access an effective remedy.

Can citizens or civil society in your country intervene in corruption cases in other capacities? (e.g. Third Party contributors, expert input, etc.)

¹⁸ Amparo en Revisión 323/2014 (Aprender Primero, A.C.). Primera Sala, ministro ponente: Jorge María Pardo Rebolledo; secretario Ricardo Antonio Silva Díaz.

Citizens, civil society, and citizen collectives can intervene as experts or contributors via Amicus Curiae in amparo proceedings as it has been recognized by the Supreme Court. Moreover, few CSOs have been acknowledged the character of victim of corruption. These are not standards generally recognized by authorities in Mexico.

The figure of the Amicus Curiae or "Friends of the Court" has been extremely useful for organized civil society to share its experience and expertise in specific matters and to provide judges with elements for their decisions. It is a technical report presented by third parties not involved in the litigation, with the intention of presenting arguments for a better resolution of a matter, giving their opinion regarding a legal issue, providing data and technical or scientific information about the case, or to warn about the possible effects or repercussions of a decision.¹⁹

The Mexican Supreme Court of Justice has received several amicus briefs in cases of national importance, such as the review of the Televisa Law, military personnel with HIV, the decriminalization of abortion in Mexico City, the morning-after pill, the Florence Cassez case, the contradiction of thesis 293/2011 on the block of constitutionality, the News Divine case, the legitimate interest of associations, the "arraigo" or the right to same-sex marriages.²⁰

In this sense, in order to promote the strengthening of citizen collectives, DLM filed an amicus curiae in the amparo lawsuit 220/2019-V, against the appointment of the Attorney General of the State of Guanajuato, Mexico, to propose and offer elements of conviction to the Third District Judge in the State of Guanajuato, with respect to the fact that the complainants in the said lawsuit, part of the citizen collective called "Fiscalía Que Sirva," had a sufficient interest (legitimate interest) to challenge the claimed acts.

¹⁹ See Geraldina, Gonzalez de la Vega, Amicus curiae. Reflexiones sobre la participación de la sociedad civil en la definición de los derechos (México, 2017), 53, Available at: https://www.sitios.scjn.gob.mx/cec/sites/default/files/publication/documents/2019-03/05_GONZ%C3%81LEZ_El-matrimonio-igualitario-desde-el-activismo-57-83.pdf

²⁰ *Idem*, p.54

Although it is a figure not regulated in the Mexican system, it has been recognized by various jurisdictional bodies, including the Tenth Collegiate Court in Administrative Matters of the First Circuit²¹ and the Electoral Tribunal of the Federal Judiciary.²²

Description of the Country:

The Mexican State has a broad regulatory framework²³ aimed at preventing and mitigating acts of corruption in public and private entities. In addition, the legislation seeks to guarantee transparency, and that civil society organizations and citizens in general can exercise control over public resources and public management. However, the enforcement and implementation of regulations requires greater efforts.

The creation of the National Anti-corruption System (SNA) through the constitutional reform²⁴ to combat corruption marked a turning point in the approach of public policies to combat corruption, through the establishment of coordination mechanisms to address the causes that generate this problem in Mexico. Thus, Article 113 of the Mexican Constitution was reformed to consolidate the National Anti-corruption System²⁵.

²¹ SCJN, Tesis I.10°.A.8 K (10ª.), (Gaceta del Semanario Judicial de la Federación. Libro 54, Tomo III, Mayo de 2018), 2412, <https://sif2.scjn.gob.mx/detalle/tesis/2016906>

²² According to the following jurisprudence:

TEPJF, Jurisprudencia 17/2014, (Gaceta de Jurisprudencia y Tesis en materia electoral, Año 7, Número 15, 2014) 15-16,

<https://www.te.gob.mx/IUSEapp/tesisjur.aspx?idtesis=17/2014&tpoBusqueda=S&sWord=amicus>

TEPJF, Jurisprudencia 8/2018, (Gaceta de Jurisprudencia y Tesis en materia electoral, Sexta Época, Año 10, Número 21, 2018), 12-13,

<https://www.te.gob.mx/IUSEapp/tesisjur.aspx?idtesis=8/2018&tpoBusqueda=S&sWord=#:~:text=AMICUS%20CURIAE,de%20rubro%3a%20E2%80%9CAMICUS%20CURIAE>

²³ Political Constitution of the United Mexican States; Federal Criminal Code; National Code of Criminal Procedures; General Law of Administrative Responsibilities; Law of the Office of the Attorney General of the Republic; Federal Law of Republican Austerity; General Law of the National Anti-corruption System; Law of Audit and Accountability of the Federation; Organic Law of the Federal Court of Administrative Justice; National Law of Extinction of Ownership; Federal Law for the Prevention of Identification of Operations with Illicit Proceeds; Agreement that aims to issue the Code of Ethics for Public Servants of the Federal Government, the Integrity Rules for the exercise of the public function and the General Guidelines to promote the integrity of public servants; Agreement that establishes the Guidelines for the Promotion and Operation of the System of Internal and External Citizen Corruption Alerters; Model of the Business Integrity Program of the Ministry of Public Function.

²⁴ Decree amending, adding and repealing several provisions of the Political Constitution of the United Mexican States Published in the Official Gazette of the Federation (DOF) on May 27, 2015.

²⁵ The purpose of the National System is to establish principles, general bases, public policies and procedures for coordination among the authorities of all levels of government in the prevention, detection and punishment of administrative offenses and acts of corruption, as well as in the oversight and control of public resources. It is an instance whose purpose is to establish, articulate and evaluate the policy on the matter.

This constitutional reform resulted in the articulation of various regulations and opened the possibility of creating a space where new bases of organization, operation and coordination between the institutions responsible for combating and controlling this phenomenon in the country were established. Equally important was the reform to section XXIV of Article 73 of the Federal Constitution, which empowered Congress to issue the general law establishing the bases for coordination of the SNA. Consequently, on July 18, 2016, the General Law of the National Anti-corruption System was published.

The National Program to Combat Corruption and Impunity and Improve Public Management 2019-2024²⁶ proposes to address the causes and effects of corruption by combating the levels of administrative impunity in the federal government, promoting the efficiency and effectiveness of public management and the assets of the Mexican State. Some local governments - 26 out of 32 - have placed the fight against corruption as a priority strategy in their state development programs.

Mexico is taking firm steps in the fight against corruption but still faces enormous challenges in this field. The country needs to capitalize on reforms, new measures, and decisions with concrete actions aimed at reducing irregular behavior, corruption, and impunity, in both the government and the private sector, as this type of behavior has a negative effect on the economy and society.

1.4 Citizens and/or civil society's intervention in corruption cases in other capacities (e.g. third party contributors, expert input, etc)

See above

1.5 State's entitlement to represent the citizens collectively in corruption cases and whether its intervention excludes direct intervention by citizens

No State Entity is entitled to represent the citizens collectively in corruption cases; however, the National Anti-corruption System developed the Citizen Participation Committee to guarantee citizen active participation in the supervision,

²⁶ Special program derived from the national development plan 2019-2024, published in the Official Gazette of the Federation on September 30, 2019.

implementation and structure of the National Anti-corruption Policies and System. Yet, it does not correspond to the exclusion of any other direct intervention by citizens.

However, as a result of the constitutional reform in anti-corruption matters, the most innovative and distinctive element over many other systems to eradicate and eliminate corruption is the creation of a Citizen Participation Committee which, in essence, assists the anti-corruption institutions and is the linking instance with social and academic organizations related to the matters of the National and State Anti-Corruption Systems. This Committee has constitutional rank, in accordance with section II of Article 113 of the Constitution and is composed of five citizens who have made outstanding contributions to transparency, accountability or the fight against corruption and are recognized for their probity and prestige.

The members of the Citizen Participation Committee are the guarantors of several constitutional values related to the national anti-corruption system, as well as guaranteeing the constitutional mandate to follow up on the operation and effectiveness of the National Anti-Corruption System.

The First Chamber of the Supreme Court in the Amparo in review 311/2018 have confirmed and recognized the legal standing and legitimate interest to promote the amparo trial against acts or omissions that violates human rights and that are related to the functioning, operability and effectiveness of the National Anti-corruption System, its policy and member authorities, and which have serious consequences for society.

1.6 Legal standing of any foreign government or foreign-based non-governmental institution to bring corruption cases on behalf of this country's citizens

No foreign State or non-state institution of a foreign country is invested with legal standing to intervene on corruption cases on behalf of this country's citizens.

2. Cases

2.1 Existence of corruption-related cases brought to Court by civil society organisations, journalists, or citizens.

There are several judicial precedents in which the Supreme Court and the Collegiate Circuit Courts have recognized that civil society organizations (human rights defenders in a broad sense) and human rights defenders (*stricto sensu*) have a legitimate interest in initiating an amparo proceeding against violations of the human rights that they are dedicated to protecting in accordance with their social purpose and activity.²⁷

The parameter to prove that civil society organizations or human right defenders (*stricto sensu*) effectively have a legitimate interest to claim violations to a certain human right, and not a simple interest, has consisted in demonstrating that their social purpose -the reason for their existence- is, precisely, the defense of the right that is being violated. This, under the argument that the fact that a legal entity has been created specifically to defend a specific human right and that it is effectively dedicated to it, places it in a different position from the rest of persons, so that an act or omission of an authority that violates the human right that it protects according to its social purpose produces an affectation and, consequently, the eventual granting of constitutional protection would generate a legal benefit for it.

Emilio Lozoya, Habeas Data Constitutional Proceeding

Derechos Humanos y Litigio Estratégico Mexicano (“DLM”) advised and followed up on an amparo habeas data²⁸ before the Eighth District Court on Administrative

²⁷ Among them, the Amparo in review 323/2014 promoted by *Aprender Primero A.C.* stands out. -defender of the human right to education- and popularly known as *Mexicanos Primero*; resolved by the First Chamber of the Supreme Court.

²⁸ This type of amparo lawsuit allows protecting and guaranteeing the right to informational self-determination of all persons within Mexican territory, which are governed by the regulations on access to information. The litigation process of this habeas data modality represents an important challenge, and the judicial resolution to be issued could be very enriching and of public utility, since it would allow generating a precedent in which it is confirmed that being a matter of public interest, a request for access to information cannot be denied, that the information is not only limited to printed documents, but that its scope is so broad that it conditions the negative answers to be very few and that they require a high level of substantiation and motivation.

Matters in Mexico City, under file number 1106/2020, given the refusal of the Federal Judiciary Council to grant access to a hearing in the corruption criminal proceedings against a former director of Petróleos Mexicanos, Emilio Lozoya Austin -and the confirmation of that refusal by the National Institute of Transparency, Access to Information and Protection of Personal Data (INAI). DLM asked the judge to interpret the United Nations Convention Against Corruption (UNCAC). In a final decision, subsequently confirmed by the Seventh Collegiate Court in Administrative Matters of the First Circuit in amparo in review 266/2021, the constitutional protection was granted. As a result, INAI and the Federal Judiciary Council were obliged to guarantee access to DLM for Emilio Lozoya Austin's hearing.

*Amparos against violations of the right to live in an environment free of corruption (Amparos in review 482/2014 and 492/2014) at the First Chamber of the Supreme Court*²⁹

The First Chamber did not conduct a scrutiny of the requirements to accredit legitimate interest, in resolving the aforementioned lawsuits the First Chamber recognized such standing to human rights defenders in the strict sense against the so-called “Anti-halconeo Law” in Chiapas. In this regard, it established that the parameter to determine the quality of human rights defenders is material and not formal; that is to say, the simple fact of the informative exercise and the defense and promotion of human rights with constitutionally legitimate purposes are sufficient for the eventual affectation produced by the law to be considered by its mere entry into force, since the meaning and scope of the same is more burdensome than its purposes by the mere fact of seriously affecting in this case the right of access to justice, and violating the democratic principle, judicial independence, progressiveness, and citizen participation as a consequence.³⁰

*Amparo against violations to freedom of expression (Amparo proceeding 390/2020-IV) decided by the Ninth District Court of the State of Guanajuato*³¹

²⁹ Available at: https://www2.scjn.gob.mx/juridica/engroses/1/2014/2/2_167828_2751.doc

³⁰ Amparo proceeding file number 390/2020-IV, Ninth District Judge in the State of Guanajuato (2020): 56.

³¹ Available:

https://sise.cjf.gob.mx/SVP/word1.aspx?arch=1243/12430000267698170040041.doc_1&sec=V%C3%ADct or_Castillo_G%C3%B3mez&svp=1

The amparo lawsuit was filed by human rights defenders. The Ninth District Judge of Guanajuato, interpreting guidelines by the Interamerican Commission on Human Rights and the UN, recognized the legal standing of human rights defenders and stated that determined “to be considered a human rights defender it is not necessary to meet special requirements or the existence of a public recognition of that character.” Under this reasoning, even though the complainants did not offer evidence to prove that they were indeed activists of the rights of freedom of expression and assembly, the Court considered that demanding evidence in this regard would be “excessive and unreasonable”³² and, on the contrary, it recognized the legal standing and legitimate interest of the complainants. This case could apply to cases where human right defenders start a procedure to report and act of corruption.

On the other hand, there are some cases where the Judges and Courts have failed to recognize the legal standing of civil society organizations and human rights defenders in constitutional cases related to corruption or regarding illegal appointments within anti-corruption bodies:

Reform of the Law of the General Attorney's Office

On the amparo trial number 801/2021 filed by two human rights defenders, co-founders of a Mexican civil association and members of various citizen groups, against certain articles of the Law of the Attorney General's Office of the Republic published in the DOF on May 20, 2021, on the grounds that they violate the adequacy and effectiveness of the administration of justice, the investigation of anti-corruption cases and the appointment of prosecutors that could investigate corruption cases.

Despite the human rights defenders gave evidence regarding their legitimate interest and invoking jurisprudence and decisions of the Supreme Court involving human rights defenders, on January 27, 2022, the Lower Court issued a first instance resolution in which it resolved to dismiss the lawsuit because it considered that the plaintiff did not give evidence of their legitimate interest. The decision was confirmed by a High Court.

³² Ídem.

Illegal appointment of the Anti-corruption Prosecutor on a national level

DLM provided support and advice to various civil organizations and human rights defenders and followed up on the case of the appointment of the head of the Special Prosecutor's Office for Combating Corruption on a national level, before the Tenth District Court on Administrative Matters in Mexico City under case number 630/2019. The lawsuit questioned that the Attorney General of the Republic and the Mexican Senate had not complied with the requirements and standards provided by law for the appointment of such person. A resolution issued by a lower court considered that the civil society organization did not have legal standing. Also, a resolution issued by a Higher Court (Fourth Collegiate Court in Administrative Matters of the First Circuit in the appeal 1/2021) confirmed the decision.

Illegal appointment of the Human Rights Prosecutor on a national level

DLM provided support and advice to various civil organizations and human rights defenders and followed up on the case of the appointment of the head of the the Special Prosecutor's Office for Human Rights, before the First District Court on Administrative Matters under case number 1204/2019. The amparo lawsuit alleged that the Attorney General of the Republic did not comply with the requirements and standards for the appointment of such person. A resolution by a lower Court dismissed the amparo proceeding due to the lack of legal standing by said civil society organizations. The lower resolution was confirmed in 2021 by a Higher Court (First Collegiate Court in Administrative Matters of the First Circuit in the appeal 144/2021).

Public procurement of gas pipes

Regarding public procurement, the Mexican State, for the acquisition of any product or public good, must comply with strict processes to ensure the best available conditions in terms of price, quality, financing and opportunity. This also implies a right of citizens to have their officials manage public resources efficiently, effectively, economically, transparently and honestly. The increase in direct awards and the illegal safeguarding of information on public procurement both for the attention to the pandemic and for the development of works and

mega-projects of the current federal administration have highlighted the critical importance of this aspect in the fight against corruption.

DLM claimed the efficiency in the administration of resources, transparency, accountability, and fight against corruption in public procurement in the trial followed before the Specialized Chamber in Online Trials of the Federal Court of Administrative Justice under the file 19/778-24-01-01-04-OL. Initiated in 2019, DLM claimed the opaque and irregular participation of the head of the Ministry of Public Administration of the federal government in the purchase in 2019 of 500 60,000-liter pipelines for the normalization of the distribution of gasoline in Mexico, as well as the invasion of powers of such Ministry over various authorities and entities of the Mexican State. The lawsuit continued under amparo number 637/2019, and on March 14, 2022, the Eighteenth Collegiate Court in Administrative Matters granted the amparo to DLM for the Specialized Chamber in Online Trials to admit the lawsuit filed by DLM. In 2021, the lower Court rejected the lawsuit considering that the acts of the authority were not definitive.

3. Collective Damage

3.1 Legal instruments that enable claiming reparation, compensation, or restoration of collective damages in any field (environmental damages, human rights, corruption, among others)

The Mexican legal framework does not provide legal instruments that enable claiming reparation, compensation, or restoration of collective damages.

3.2 Procedures for advancing class-actions

Although class actions are part of the Mexican legal framework, those were designed by the legislator for consumer and environmental claims. Mexico has not recognized expressly any specification of reliefs or remedies for damages, the remedies will depend upon the class-action nature, circumstances, purposes, and claims sought in the proceeding.

Mexican framework includes “Diffuse actions” - indivisible claims brought to protect diffuse rights or interests belonging to an undetermined community-, “Collective actions stricto sensu” - indivisible claims brought to protect common rights or interests belonging to a determined or determinable community or group based on common circumstances-, and “Individual homogeneous actions” -divisible claims brought to protect individual rights or interests that have a collective impact, belonging to individuals in common circumstances.

4. The Role of the victims of corruption

4.1 Definition of victims of corruption or common definition used by the courts in this country

In addition to the definition of the victim from the criminal law perspective, in Mexico, the General Law of Victims provides as following:

Direct victims are those persons who have directly suffered any economic, physical, mental or emotional damage or harm, or in general any endangerment or injury to their legal property or rights as a consequence of the commission of a crime or violations of their human rights recognized in the Constitution and in the International Treaties to which the Mexican State is a party.

Family members or dependents who have an immediate relationship with the direct victim and any person who in any way suffers harm or endangers his or her rights as a result of assisting a victim are indirect victims.

The quality of victims is acquired with the accreditation of the damage or impairment of rights in the terms established in this Law, and regardless of whether the person responsible for the damage is identified, apprehended, or convicted, or of his participation in any judicial or administrative proceeding.³³

³³ Article 4 of the General Law of Victims

Nevertheless, there is no specific generally agreed upon or legally established definition for victim of corruption.

4.2 Cases that recognize the role of victims

In addition to the recognition of the legal standing of CSO on corruption-related cases, the Amparo under file number 22/2019 from the Sixth Judge of District in Criminal Matters recognized TOJIL organization's character as a victim of corruption in the investigation of the case of Javier Duarte, although the decision was revoked by a Higher Court.

Amparo proceeding against the refusal to recognize the character of the victim in the complaint against acts of corruption (File number 959/2021) resolved by the Fifth District Judge of the State of Aguascalientes

On the amparo proceeding 959/2021, the plaintiff challenged the resolution issued in a procedure regarding a corruption report before the Specialized Prosecutor's Office for Combating Corruption of Aguascalientes. Such resolution recognized the plaintiff as a "complainant" but not as a "victim" since she did not meet the requirements to prove such status.

The Fifth District Judge of the State of Aguascalientes granted the amparo to the plaintiff in order to recognize her as a "victim":

- People must be provided with greater tools that enable them to protect not only their individual legal rights (such as life, physical integrity, liberty, etc.), but also collective or supra-individual rights, as they are susceptible of affecting a broad sector of the society of which they are a part.³⁴

- The concept of the victim should be maximized, allowing the person to intervene in those cases in which criminal conduct affects or endangers collective legal interests, as they are susceptible to suffering some type of harm by being part of the society in which such conduct is being carried out.³⁵

³⁴ Amparo Proceeding file number 959/2021, Fifth Judge of District of the State of Aguascalientes (2021):30.

³⁵ Idem.

- This is especially relevant in corruption offenses because, as the United Nations Convention Against Corruption and the Inter-American Convention Against Corruption have pointed out, it is a phenomenon that undermines the institutions and values of democracy, compromises the sustainable development of countries, allows the activity of organized crime involving vast amounts of public resources of the States.³⁶

- Therefore, its protection and ownership must be considered established for any person or organization that pursues such purposes and is part of it, since society and its members, being affected, are interested in the investigation of such conducts, as well as those responsible for them.³⁷

- The interpretation that must be made of articles 108 of the National Code of Criminal Procedures, in relation to precept 4 of the General Law of Victims, must be that all persons, and not only the groups, communities, or social organizations, possess the ownership of the collective legal goods and, therefore, are susceptible to have the quality of victims, as long as they are part of the society in which the criminal conduct is being carried out.³⁸

- The Supreme Court of Justice of the Nation, as well as several Courts of the Federal Judicial Power, have adopted an open and have expanded the concept of the nature of the victim and injured party in order to give access to justice to persons who, although they often do not have the possibility of generating the procedural requirement as to the affectation or impairment of their protected legal interests, nevertheless, they do have a legal or legitimate interest in the punishment of certain conducts.³⁹

Despite the fact that the character of the victim is of a criminal nature and is not a figure applicable strictly speaking to the amparo proceeding, what is relevant in this precedent is the reasoning of the District Judge in which he recognizes the

³⁶ Idem: 31.

³⁷ Idem.

³⁸ Idem 9

³⁹ Idem: 32

legal standing of human rights defenders to defend the right to live in an environment free of corruption.

From a joint interpretation of Articles 108 of the National Code of Criminal Procedures, 4 of the General Law of Victims, and 5 of the Amparo Law, it is possible to conclude that, in order to provide the broadest protection in the area of human rights, it is necessary to recognize the legal or legitimate interest as legal standing of the victims of corruption -both direct and indirect (human rights defenders and CSOs)- to denounce such improper acts, must be recognized, whether they are typified in international treaties, derive from international standards or are regulated in the General Law of Administrative Responsibilities or the Federal Criminal Code, as the case may be.

4.3 Corruption-related court cases (criminal, civil, administrative) that awarded compensation to individuals or to identifiable or non-identifiable groups of victims to repair the damage caused by the corruption offense

Most cases are usually carried upon constitutional grounds. This means that no damages can be awarded except for the restitution of violated rights, which does not include compensation or damage reparation for corruption offenses. There is no register in Mexico of any awarded compensation to individuals, groups or victims of corruption for damages caused by corruption offenses.

The content of the National Anti-corruption Policy refers to the reparation of damages for human rights violations derived from acts of corruption. Specifically, in axis one, priority two, the eighth suggested action consists of “promoting the development of a strategy to compensate the damage of victims for acts of corruption, under a focus of respect and guarantee of human rights”. It is worth asking ourselves: how far can the National Anti-corruption Policy and System go if the normative structure and the criteria of the Supreme Court are not sufficiently robust in terms of reparation of damage for human rights violations?

As we have seen, guarantees of non-repetition seek to ensure that human rights violations do not happen again, neither for the specific victims nor for other

persons, and have been used by the Inter-American Court in various cases⁴⁰ of gross or systematic human rights violations. However, although the criteria of the Supreme Court⁴¹ have established that the Amparo Law has certain figures that can be reinterpreted as measures of guarantees of non-repetition, the truth is that their scope is limited in contrast to the measures of non-repetition established by the Inter-American system.

4.4 Innovative or effective mechanisms that can be considered good practice regarding the recognition and compensation of victims in corruption-related cases

N/A.

5. Available Information

5.1 Information published by enforcement authorities (including control agencies) about corruption enforcement actions

Regarding corruption related cases, enforcement authorities share minimal information about corruption enforcement actions, however, information about their annual report of activities is yearly published.

- The enactment of sanctions
- The grounds for sanctioning or acquitting (the case)

5.2 Feasible access to information on ongoing or concluded cases

Information on ongoing or concluded cases are not usually feasible in Mexico. The access is minimal or is rather incomplete, uncertain, or classified as “reserved” information, and can be held under that character for up to 12 years⁴². Relevant and priority information regarding actual corruption cases have been classified for periods of 5 years, such as regarding case Cienfuegos, an ex-Secretary of

⁴⁰ Case Loayza Tamayo vs. Perú; Castillo Páez vs. Perú and Gutiérrez Soler vs. Colombia

⁴¹ Amparo in review 706/2015 y Amparo in review 568/2016

⁴² See articles 13 and 14 of the Federal Law on Transparency and Access to information

Defense,⁴³ case which was later dismissed. Relevant information in public procurement and infrastructure “mega-projects” of the actual government concerning alleged cases of corruption has also been classified as reserved.

5.3 Ways for citizens or civil society organisations to gather information on whether corruption cases are being investigated or trialed.

Access to public information is broadly regulated in Mexico and is usually also broadly guaranteed satisfactorily. On the contrary, information on corruption-related cases or investigations is more commonly unavailable to citizens or CSOs. If the information is not classified under articles 13 and 14 of the Federal Law on Transparency and Access to Public Information, citizens or CSOs might obtain the information through a request of access of public information and/or through the National Platform of Transparency from the National Institute on Transparency, Access to Information and Protection of Personal Data or on the assistance to the public hearings in corruption-related trials if the conditions, the case and the authority actually allows to -as shown in the habeas data amparo proceeding by DLM for Emilio Lozoya’s Hearing-. Nevertheless, generally, the response of authorities will not reveal the process, stance, or other information on how or whether corruption cases are being investigated or trialed until there is the enactment of sanctions or the grounds for acquitting.

6. Supplementary information

6.1 Main identified barriers that prevent CSOs, citizens, and journalists from standing as victims of corruption cases.

- a) Practical inaccessibility to constitutional protection and the absence of guarantee of an effective legal remedy for human rights violations.

⁴³ Check news paper “México reserva información sobre caso Cienfuegos” by *Política Expansión*, available at: <https://politica.expansion.mx/mexico/2020/12/18/voces-mexico-reserva-informacion-sobre-caso-cienfuegos>

- The requirements established for the accreditation of legitimate interest in the amparo proceeding are excessive for civil society organizations and contrary to its essence as a means of protection of human rights.

They represent an excessive obstacle that impedes access to the jurisdiction.

o The concepts of aggrieved party, legitimate interest and legal interest are often the main impediments to the legitimate exercise of the right of access to justice in the case of human rights violations.

o The amparo proceeding should be admissible by the simple fact that a fundamental right or individual guarantee has been violated or affected.

- Until the pertinent legislative modifications are made, it is up to judges, courts and the SCJN to make the standards of standing in the amparo trial more flexible, creating precedents that allow for a broader protection of human rights, especially with respect to persons who are considered to be human rights defenders.

b) Consolidate the right to defend human rights.

- Given the difficult context, mainly in Latin America, in which human rights defenders carry out their invaluable activity, it is necessary to consolidate and fully recognize the right to defend human rights as an autonomous right -as the Constitution of Mexico City already does-.

- In order to guarantee the right of human rights defenders to defend their rights, this right must be analyzed in the light of international treaties, as well as eliminating the technical barriers that have been imposed by the Mexican courts over the years and consequently moving away from those criteria that restrict their legal standing in the amparo trial.

c) Recognize the importance of CSOs and human rights defenders in the fight against corruption.

- The creation and operation of associative structures for the development of promotion and defense activities should be guaranteed and not hindered

through compliance with the obligations inherent to the rights of association and freedom of assembly.

- Enabling the defense of supra-individual human rights is especially relevant in corruption offenses because it is a phenomenon that:

o Undermines the institutions and values of democracy, compromises the sustainable development of countries, allows the activity of organized crime involving vast amounts of public resources of the States.

o It involves conducts that are often not criminalized and that are carried out in a hidden manner.

o In most cases it goes unpunished.

- This, in turn, implies addressing the recommendations made by Transparency International⁴⁴, as well as the data provided by the CCC index in the sense that Mexico's strength in the fight against corruption lies outside the government: in civil society.

- It also implies complying with the obligations acquired through the United Nations Convention Against Corruption and the Inter-American Convention Against Corruption to establish the necessary conditions for society to actively and directly participate in the fight against corruption, allowing it access to ways, actions and procedures to actively and directly control corruption.

d) To make the appropriate amendments and reforms to the law.

- The existing problem regarding legitimate interest and legal standing could be corrected through the legislative process. This would lead to include and defining in Article 4 of the Amparo Law that civil society organizations, citizen collectives and groups of human rights defenders may defend supra-individual interests and objective rights.

e) Guarantee the integrity of human rights defenders.

⁴⁴ "México, Sin Avance En Índice De Percepción De La Corrupción: Transparencia Mexicana." 2022, <https://www.tm.org.mx/jpc2021/>.

- Finally, special attention should be paid to the phenomenon of criminalization of human rights defenders “that hinders or discourages the work of defending and promoting human rights”.⁴⁵

- To the extent that when the work of human rights defenders is attempted to be silenced and inhibited, thousands of people are in turn denied the opportunity to obtain justice for violations of their human rights.⁴⁶

6.2 Other aspects, issues, provisions, or practices linked to the role, recognition, and compensation of victims of corruption.

It should be considered to amend article 109 of the Constitution to expressly include the coverage on the compensation of victims of corruption regarding State responsibility for irregular activities or derived from acts of corruption. The liability of the State to compensate for the damages that, by reason of its irregular administrative activity or corrupt act, caused to the victims of corruption could also be indirect, and so must be considered. In that sense, such amendments and the definition of “victims of corruption” in the Mexican legal frame must also be developed in accordance with the bases, limits and procedures established by law and in accordance with the international standards and criteria.

⁴⁵ Inter-American Commission of Human Rights, *Criminalización de la labor de las defensoras y los defensores de derechos humanos*. OEA/Ser.L/V/II. Doc. 49/15, 2015. Parr. 11.

⁴⁶ “Informe Sobre La Situación De Las Defensoras Y Defensores De Los Derechos Humanos En Las Américas.” <https://www.cidh.oas.org/countryrep/defensores/defensorescap1-4.htm>.