

The impact of the jurisprudential interpretation emanating from the Supreme Court of Justice of the Nation and its application in local courts in Mexico

El impacto de la interpretación jurisprudencial emanada de la Suprema Corte de Justicia de la Nación y su aplicación en Tribunales locales en México

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Abstract

The jurisdictional decision when resolving specific cases often exceed the content of the spirit of the law itself. Or, the scope that the legislator intended to give to the law may be limited. The Supreme Court of Justice of the Nation, by means of its interprets what should prevail, and such interpretation is mandatory for local courts. This is the case with the judgment in Amparo en Revisión 2666/2020, which resolves the unconstitutionality of the payment of the reparation of damages resulting from a crime and that crime and which is a right of the victims in criminal proceedings. Now then, justifies its analysis, derived from the fact that this interpretation will be applied in matters resolved on criminal matters resolved in local Courts, since the National Code of Criminal Procedures is applicable in all the courts of the country.

Human Rights, Jurisprudence, Unconstitutionality, Law, Amparo Proceeding, Defendant, Victim

Resumen

La decisión jurisdiccional cuando se resuelven casos concretos suelen rebasar el contenido del espíritu mismo de la ley. O bien, quedar limitado el alcance que el legislador pretendió dar a la misma. La Suprema Corte de Justicia de la Nación, a través de criterios jurisprudenciales interpreta lo que debe imperar, siendo obligatoria dicha interpretación para los Tribunales locales. Así acontece con la sentencia dictada en el Amparo en Revisión 2666/2020, que resuelve sobre la inconstitucionalidad relativa al pago de la reparación de daño proveniente de delito y que es un derecho de las víctimas en proceso penal. Ahora bien, justifica su análisis, derivado que esta interpretación se aplicará en asuntos resueltos en materia penal en Tribunales locales, toda vez que el Código Nacional de Procedimientos Penales, es aplicable en todos los tribunales del país.

Derechos Humanos, Jurisprudencia, Inconstitucionalidad, Ley, Juicio De Amparo, Imputado, Víctima

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Introduction

The constitutional reform that establishes the adversarial justice system in Mexico entered into force on 18 June 2016 and has had as its main objective the unrestricted respect of the human rights of the accused and the victim. The final judgment under review analysed in this investigation bears witness to this.

Undoubtedly, it is unquestionable that, as this is a novel piece of legislation, the judicial interpretations visible in the various rulings merit challenges that are intended to set precedents for any act related to the matter. Such as occurred with the amparo in review 2666/2020, in which the unconstitutionality of an article of the Penal Code of the State of Mexico was raised, and consequent violations of human rights provided for in the Magna Carta and international treaties. These rights are enjoyed by all persons. For this reason, the judicial interpretation of this specific case may well be applied in other courts in the country.

Contextualization

On this occasion, it is appropriate to analyse the amparo ruling on review identified as case number 2666/2020, which resolves the crime of injury with the aggravating circumstances of having been committed with a prohibited weapon, having caused a decrease in the function of mobility, having been committed with advantage and by a brother.

In order to contextualise our study, we will say that the sentence analysed derives from the decision in an abbreviated procedure carried out before the control judge of the Judicial District of Tenancingo, State of Mexico, in which, once the sentence was handed down, both the accused and the victim appealed. Subsequently, the victim filed a direct appeal for amparo before the Collegiate Circuit Court on Criminal Matters of the Second Circuit, which in its final judgment denied the amparo, which led to the corresponding appeal for review that resulted in the formation of the amparo under review that is now being analysed.

Legal basis

The legal system that establishes human rights in our country is the Political Constitution of the United Mexican States, which in article 1 establishes in its first paragraph that:

...in the United Mexican States all persons shall enjoy the human rights recognised in this Constitution and in the International Treaties to which the Mexican State is a party, as well as the guarantees for their protection, whose exercise may not be restricted or suspended, except in the cases and under the conditions established by the Constitution. ([Congress of the Union, 2023](#)).

Based on this premise, it can be established that the right to challenge the jurisdictional decision issued in the first instance is supported by the aforementioned provision. In this way, it is established that, in our country, by the simple fact of being a person, the enshrined human rights are inherent to them, but not only that, but also the guarantees for their protection are also available. In the case under analysis, this guarantee is constituted by the amparo trial, the constitutional means of protection par excellence for the protection of human rights, which is recognised as "...a means of defence that individuals have to protect, before the courts, the rights recognised by our Constitution when we consider that an authority is violating them" ([Suprema Corte de Justicia de la Nación, 2014, p. 11](#)).

It can be seen, then, that the victim has the right to challenge the decision, having correctly opted to file an amparo lawsuit, initially trying to obtain the protection and protection of the federal justice system against the act that, according to him, was injurious to him.

Given that the ruling handed down in the direct amparo did not favour his interests, because he even considered that the decision was related to the direct interpretation of articles of the Constitution, he decided to file an appeal for review before the Supreme Court of Justice of the Nation, which, once admitted for processing, handed down the final ruling, which we are now analysing.

The present work is analysed under a qualitative approach, having a descriptive reflexive scope, making use of the argumentative methodology of study, under the constitutionally established criminal trials, as a first step, to obtain the most relevant information on the nature and scope of the case.

The analysis of the amparo en revisión 266, which was issued in the first instance, is based on the terms and logic of the body that issued it.

Analysis of amparo en revisión 2666/2020

We will begin by referring to the full reparation of damages that must be satisfied in criminal trials, as is constitutionally established.

Article 204 of the National Code of Criminal Procedures establishes that: "the opposition of the victim or injured party will only be admissible when it is accredited before the supervising judge that the reparation of the damage is not duly guaranteed" ([Chamber of Deputies, 2066/2020](#)). ([Chamber of Deputies, 2023a](#)).

One aspect that the victim complained about in the revision filed, he considers that in the criminal proceedings the reparation of the damage was not duly guaranteed, a procedural requirement that brings with it the consent to opt for an abbreviated procedure, in addition, as one of the purposes of the criminal proceedings. In short, he considered that the compensation should be higher than the one he received, in accordance with the provisions of the Federal Labour Law.

It is worthwhile for our analysis to pronounce ourselves on the issue of reparation of damages. In the first place, we maintain that reparation of damages constitutes a public penalty, once an act is committed that the law indicates as a crime, it is fair that the person who committed it is punished, if necessary, with corporal punishment, but he/she will also be obliged to compensate the damage caused, in other words, he/she will repair what he/she damaged or affected.

This implies the protection of a human right that translates into legal certainty for the victim that the harm suffered will be compensated, in terms of what the law establishes.

In similar terms, the American Convention on Human Rights, in Article 63.1 provides that: ...when it decides that there has been a violation of a right or freedom protected by this Convention.

The Court shall order that the injured party be guaranteed the enjoyment of his violated rights or freedoms.

It shall also order, if appropriate, that reparation be made for the consequences of the measure or situation that constituted the violation of those rights and the payment of fair compensation to the injured party. ([Inter-American Court of Human Rights, 1978](#)).

From the above, it can be deduced that in national and international legal systems, the payment of reparation for the damage when it stems from a crime, must be paid to the victim.

The question that would occupy us in terms of the analysis that is being developed is: with the judge's decision in relation to the sentence of payment of reparation for damages, were the principles of legal certainty and security violated? In our opinion, no. We will try to explain: Articles 201, section I, 202, 205 and 206, of the National Code of Criminal Procedures, in relation to Article 20, Section C, section VII of the Constitution, regulate the payment of reparation for damages. ([Chamber of Deputies, 2023a](#)).

In order for the hypothesis of reparation of damages to be fulfilled, the supervising judge must take into consideration the following:

- That reparation of the damage as a pecuniary sanction constitutes a penalty or public sanction that consists of: the return of the thing obtained with the commission of the crime, and if this is not possible, the payment of its price; the indemnification of the material and moral damage caused, AND; the compensation of the damages derived from the commission of the illicit.

Another aspect that should not be left aside is that the reparation of the damage will be determined by the judges, according to the damage that needs to be repaired, in accordance with the evidence obtained during the process. Substantial notes that, in our opinion, the judges fully observed in the case in question.

The National Code of Criminal Procedures is imperative in specifying that the opposition made by the victim in relation to the payment of the reparation of damages must be founded, in other words, that there must be elements that leave no room for doubt as to his opposition, not a mere refusal.

It is therefore concluded that there was no violation of the principles of legal certainty and security to the detriment of the victim. Criterion strengthened by the Supreme Court of Justice of the Nation in the thesis illustrated.

Integral reparation of the damage. Article 42 of the criminal code for the federal district, applicable in Mexico city, which defines the items that must be included, is not limiting and, therefore, does not violate said fundamental right.

Facts: A person was held criminally responsible for the crime of culpable injuries, for which he was sentenced to the payment of various amounts for reparation of material damage, compensation under the Federal Labour Law, reparation of damage by subrogation to the victim's insurer and, reparation of moral damage, a resolution that was modified on appeal.

Against this sentence, the victim of the crime filed a direct appeal in which he raised, among other arguments, the unconstitutionality of article 42 of the Criminal Code for the Federal District, applicable in Mexico City, considering that it limits the right to a comprehensive, proportional, efficient and fair reparation, as it restricts the judge to condemn only in relation to the concepts that are listed in a limitative manner.

The Collegiate Circuit Court considered the arguments of unconstitutionality of the aforementioned article to be unfounded and granted the amparo on various grounds. The complainant filed a petition for review of this ruling.

Legal criterion: The First Chamber of the Supreme Court of Justice of the Nation considers that article 42 of the Criminal Code for the Federal District, applicable in Mexico City, does not violate the victim's right to full reparation of damages, as it does not limit the items that must be included nor does it avoid such reparation.

Justification: In accordance with the doctrine of this Supreme Court regarding the right to comprehensive reparation of damages, it is concluded that the fact that the aforementioned article does not regulate certain expenses does not lead to it being considered unconstitutional, as the legislator is not obliged to list all possible cases, since the article is enunciative, especially when it comes to rules that protect victims, the one that provides the greatest benefit or is most favourable to them in order to achieve comprehensive reparation of damages, in accordance with the principle of maximum protection, always applies. This is so, since the article is so broad that it allows the judge who decides on the reparation of damages, according to each case in the free and prudent exercise of his or her power, to guide his or her criteria with complementary provisions, such as the General Victims Law, the Victims Law for Mexico City or the criteria of the Inter-American Court of Human Rights. ([Supreme Court of Justice of the Nation, 2022](#)).

It is not possible to ignore the character of victim that has been duly accredited in the trial by the person who has filed the appeal for review that we are dealing with here. In other words, whoever appears in the criminal proceeding as a victim, accredited such character, according to the law that regulates it. In this specific case, it is clear from paragraph 4 of the General Victims Law that: ...those natural persons who have suffered any economic, physical, mental or emotional harm or damage, or in general any endangerment or injury to their legal assets or rights as a consequence of the commission of a crime or violations of their human rights recognised in the Constitution and in the international treaties to which Mexico is a party, shall be called direct victims. ([Chamber of Deputies, 2023b](#)).

Thus, the procedural prerequisites for the analysis of the remedy of review have been met. The fact that the victim considered that the stipulated payment for reparation of damages did not satisfy his claims in no way amounted to a violation of his constitutional and international rights enshrined in legal orders. In the resolution that is now being analysed, it is clear that the body that resolves at all times observed the provisions of the National Code of Criminal Procedures, the Magna Carta and the General Law on Victims, in order to resolve in the sense that it did.

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The complainant argued in her complaint the unconstitutionality of the first paragraph of Article 30 of the Penal Code of the State of Mexico, which establishes:

In cases of injury, rape and in the absence of specific evidence regarding the damage caused, the judges will take as a basis twice the tabulation of compensation set by the Federal Labour Law and the highest general minimum wage in the State.

In the case of homicide, the compensation will be the equivalent of two thousand one hundred and ninety days of the highest general minimum wage in force in the state.

In the cases of femicide, as well as the aforementioned crimes, if they are committed in public passenger transport vehicles, official vehicles, staff vehicles, school vehicles in service or other vehicles that without official authorisation provide an equivalent service, the amount of the reparation of the damage will be three times the tabulation of compensations established by the Federal Labour Law.

In the case of injuries and homicides committed by the driving of public passenger transport vehicles, official vehicles, staff vehicles, school vehicles on duty or any other vehicle that without official authorisation provides an equivalent service, and in the absence of specific evidence regarding the damage caused, judges shall take as a basis the tabulation of compensation established by the Federal Labour Law and the highest general minimum wage of the State. ([Congress of the State of Mexico, 2023](#)).

It is considered in the final analysis that the grievance lacks legal support. A careful reading of the aforementioned article is sufficient to realise that, contrary to what the complainant argues, there is no impediment in this provision to grant reparation for damages. Given that the previous article should be related to Article 26 of the same legal ordinance, which establishes the conditions or requirements for full reparation of damages.

Furthermore, it is considered that there must be a clear difference between the fact that the issue of reparation of damages is not regulated in the legislation and the fact that the victim, in a specific case, does not agree with the judge's sentence in terms of the economic amount that is established.

The judge's criteria is shared in this sense, as Article 30 of the Penal Code for the State of Mexico cannot be considered unconstitutional when it is not in accordance with what was intended. There must be more weighty elements for it to be considered as such. In addition, a reading of the legal provisions listed here makes it clear that it is imperative that whoever causes damage derived from the commission of a crime must make reparation for it, which is the only way to explain the public penalty nature of the concept of reparation for damage.

The ruling in the sentence under analysis is related to the various criteria that the Supreme Court of Justice of the Nation has established on the subject, such as the thesis cited above: Fundamental right to full reparation or fair compensation. Concept and scope.

The right to full reparation or fair compensation is a substantive right whose extension should be protected in favour of the governed, and should not be restricted unnecessarily. In accordance with the criteria issued by the Inter-American Court of Human Rights, the right to full reparation allows, as far as possible, to annul all the consequences of the unlawful act and re-establish the situation that should have existed in all probability if the act had not been committed, and if this is not possible, it is appropriate to pay fair compensation as a measure of redress for the damage caused, which in no way should imply generating a profit for the victim, but rather granting him or her adequate compensation. Modern tort law looks at the nature and extent of the damage, at the victims and not at the perpetrators.

It is the damage caused that determines the compensation. Its nature and amount depend on the damage caused, so that reparations can imply neither enrichment nor impoverishment for the victim or his or her successors.

Liability is not intended to be excessive, as it must be subordinated to qualitative requirements. Compensation will be excessive when it exceeds the amount sufficient to compensate the victim.

However, limiting liability by setting a quantitative ceiling implies marginalising the specific circumstances of the case, the real value of the reparation or of the impaired health. Compensation is not fair when it is limited by ceilings or tariffs, when instead of the judge quantifying it based on criteria of reasonableness, it is the legislator who arbitrarily fixes compensation amounts, regardless of the case and its reality. Only the judge, who knows the particularities of the case, can quantify the compensation fairly and justly. ([Suprema Corte de Justicia de la Nación, 2012](#)).

As can be seen from the above-mentioned decision, the legislator has had the wisdom to ensure that the concept of payment of compensation for damages is not left to the discretion of the judge, nor much less, outside the range of the legal norm. By means of the legislation, the aim is for the victim to find legal support for his claim, without forgetting that the presence of the prosecutor and his legal advisor will ensure that his payment is made in accordance with the provisions of the law.

Conclusions

One of the most important aspects of the reform of the Political Constitution of the United Mexican States, in criminal matters, has been precisely that which is closely related to the payment of reparation for the damage caused by the crime. This is one of the main aims of the criminal process. As it is established as a public penalty, it is in the State's interest that, in the various criminal proceedings, it is duly guaranteed along with the sanction or penalty that may be imposed on the accused.

The effort made by the courts in our country to guarantee this right of the victim at trial is unquestionable, as can be seen in each of the sentences that are handed down. The scope of these rulings leads us precisely to the Supreme Court of Justice of the Nation having to pronounce itself when there is an undeniable right to challenge a legal provision as unconstitutional.

Rulings such as the one analysed in this study are proof of this. Respectful of the exercise of the right of action that corresponds to the governed, but in accordance with the legal provisions that apply to the case and the criteria that have set precedents in the current issue.

Undoubtedly, there will continue to be challenges to jurisdictional decisions on the grounds of interpretation of the law, but far from wearing us down, it is an opportunity to establish judicial criteria that contribute to respect for the human rights of the governed.

Declarations

Conflict of interest

The authors declare that they have no conflict of interest. They have no known competing financial interests or personal relationships that might have appeared to influence the article reported in this paper.

Authors' contribution

Flores-Corvera, Saúl Oswaldo: Contribution in the research idea and main writing.

Mercado-Castellanos, Juan Carlos: Contribution in the search for information and writing of conclusions.

Muñoz-García, Martha María de los Ángeles: Contribution to the search for information, writing and style.

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References**Basic**

Chamber of Deputies (2023a) [National Code of Criminal Procedures](#). Last reform DOF 25-04-2023

Chamber of Deputies (2023b) [General Victims Law](#). Last reform DOF 25-04-2023.

Congress of the Union (2023) [Political Constitution of the United Mexican States](#). Last Reform DOF 06-06-2023

Congress of the State of Mexico (2023) [Penal Code of the State of Mexico](#). Last Reform POGG 27-10-2023.

Inter-American Court of [Human Rights \(1978\) American Convention on Human Rights](#).

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Suprema Corte de Justicia de la Nación (2022) [Tesis 1ª./J](#), Semanario Judicial de la Federación y su Gaceta, Undécima Época, t. II, 19 November 2022, p.1259.

Suprema Corte de Justicia de la Nación (2012) [Tesis 1ª/CXCV/2012](#). Semanario Judicial de la Federación y su Gaceta, Tenth Epoch, t. 1, September 2012, p. 502.

Suprema Corte de Justicia de la Nación (2014) [La Ley de Amparo en lenguaje llano. Why is it important for the protection of our rights?](#)