

This summary contains the cover page, the synthesis and the extract of a decision of Mexico's Supreme Court of Justice. Changes were made to its original text to facilitate the reading of the extract. This document has informative purposes, and therefore it is not binding.

**INFORMAL HUMAN SETTLEMENTS: DIGNIFIED HOUSING AND EQUALITY  
(ASENTAMIENTOS HUMANOS INFORMALES: VIVIENDA DIGNA E IGUALDAD)**

**CASE:** *Amparo en Revisión 635/2019*

**REPORTING JUSTICE:** Norma Lucía Piña Hernández

**DECISION ISSUED BY:** First Chamber of Mexico's Supreme Court of Justice

**DATE OF THE DECISION:** June 17, 2020

**KEY WORDS:** right to decent housing, right to equality and non-discrimination, exceptions to the principle of relativity of *amparo* trial decisions, standing of non-governmental organizations, informal settlements, inequality, poverty, statistics, population, housing.

**CITATION OF THE DECISION:** Supreme Court of Justice of the Nation, *Amparo en Revisión 635/2019*, First Chamber, Norma Lucía Piña Hernández, J., decision of June 17, 2020, Mexico.

The full text of the decision may be consulted at the following link:

<https://www.scjn.gob.mx/derechos-humanos/sites/default/files/sentencias-emblematicas/sentencia/2022-02/AR635-2019.pdf>

**CITATION SUGGESTED FOR THIS DOCUMENT:** Center for Constitutional Studies of Mexico's Supreme Court of Justice, Excerpt from the *Amparo en Revisión 635/2019*, Mexico.

## SUMMARY OF THE *AMPARO EN REVISION* 635/2019

**BACKGROUND:** A civil association called Un Techo para mi País México (Techo) filed an indirect *amparo* lawsuit against the National Institute of Statistics and Geography (INEGI) against the failure to collect data on informal settlements during censuses. According to the lawsuit, this omission violates the rights to decent housing and to equality and non-discrimination, because the lack of such information prevents the generation of adequate public policies to address the multiple human rights violations suffered by the unprotected groups that inhabit them. The district court of Mexico City that heard the *amparo* decided to dismiss the case. Techo filed a *recurso de revisión* and INEGI adhered to the *recurso de revisión*. The Mexico's Supreme Court of Justice (this Court) asserted jurisdiction over the case.

**ISSUE PRESENTED TO THE COURT:** Whether INEGI's lack of statistical information on informal settlements violates the rights to decent housing and to equality and non-discrimination. In addition, whether there are exceptions to the principle of relativity of *amparo* trial decisions and whether non-governmental organizations have standing to file suit against omissions that impede the work of their corporate purpose.

**HOLDING:** The *amparo* was granted for the following reasons. It was first analyzed whether there was an exception to the principle of relativity of *amparo* trial decisions and whether the affected organization had standing to file the *amparo*. This Court concluded that, according to its precedents, in order to prove the standing of civil associations created to defend a class action, the following must be taken into account: a) the nature of the right; b) the corporate purpose of the organization, and c) the alleged impact. This is to be able to assess whether the claim may have significance in the legal sphere of the affected entity. In this case, it was determined that INEGI's omission directly affected the fulfillment of Techo's corporate purpose, which was the defense of decent housing. This is because by not having enough information about the informal settlements, it could not design the necessary public policies aimed at defending the vulnerable population living in those places. It was also determined that the granting of the *amparo* would not affect society in general, but a sector of the population, so the

principle of relativity of *amparo* trial decisions was not violated. With regard to INEGI's obligation to issue information on informal human settlements, it was taken into account that under article 3 of its governing law, its main attribution is to provide society and the State with quality, relevant, accurate, and timely information, in order to contribute to national development. In this regard, this Court determined that informal settlements are the neediest and most excluded communities, and that they are characterized by poverty and large agglomerations of houses in poor condition, generally located in the most hazardous areas, since in addition to the instability of the right of occupancy, the inhabitants of these settlements do not have infrastructure, basic services, public space or green areas. They are also constantly exposed to eviction, disease and violence. All of the above is directly related to the right to decent housing and the right to equality and non-discrimination. Consequently, the State must adopt public policies to resolve violations of these rights, so it was concluded that INEGI, in the exercise of its exclusive powers, must generate the appropriate, pertinent and effective statistical and geographical information that provides the State with instruments to optimally implement the public policies necessary to improve the conditions of the inhabitants of these settlements.

**VOTE:** The First Chamber decided this case with the unanimous vote of the five justices Norma Lucía Piña Hernández, Ana Margarita Ríos Farjat (reserved the right to issue a concurring opinion), Jorge Mario Pardo Rebolledo (reserved the right to issue a concurring opinion), Alfredo Gutiérrez Ortiz Mena (reserved the right to issue a concurring opinion) and Juan Luis González Alcántara Carrancá (reserved the right to issue a concurring opinion).

The votes may be consulted at the following link:

<https://www2.scjn.gob.mx/ConsultaTematica/PaginasPub/DetallePub.aspx?AsuntoID=260186>

## EXTRACT FROM THE *AMPARO EN REVISION* 635/2019

p.1 Mexico City. The First Chamber of Mexico's Supreme Court of Justice (this Court), in virtual session of June 17, 2020, issues the following decision.

### BACKGROUND

p.1-2 By document filed on the twenty-fourth of July of two thousand eighteen, before the Common Correspondence Office of the District Courts in Administrative Matters in Mexico City, Techo filed an *amparo indirecto* lawsuit against INEGI, for the following acts:

p.2-3 a) The omission consisting of not having generated information about the number of informal settlements that exist in the United Mexican States (Mexico) identifying their locations and the population that inhabits them; b) The omission consisting of not having carried out any population census in informal settlements in Mexico, with the aim of producing disaggregated statistics on the people in informal settlements and their access to basic services which make up the essential core of the right to housing; c) The omission consisting of not having generated or obtained all the information about the population in informal settlements as part of the national census, in order to know the current state of the exercise of the right to housing, as well as the current state of access to and enjoyment of services among these population centers, all in order to contribute to national development in the terms of articles 1, 6 and 26.B of the Political Constitution of the United Mexican States (CPEUM), as well as in the Law of the National System of Statistical Information and Geography (the Law), articles 3, 4, 6, 55 and 78, nor having approached the populations in informal settlements and/or their community leaders to hear their opinions in order to comply with these constitutional purposes; d) The constant and sustained institutional discrimination against the population living in informal settlements in Mexico, by excluding them from the population censuses and from all statistical information necessary to produce results indicators for State public policies; and e) The violation of housing rights of the population living in informal settlements in Mexico consisting of failing to comply with its obligation to generate statistical information about the public services they have access to so that public policies can be designed and implemented to improve the exercise of the right to housing of that population.

- p.3-4 The affected party invoked articles 1, 4, 6 and 26 (B) of the CPEUM as violated provisions; articles 3, 4, 6, 55 and 78 of the Law, as a law regulating article 26 (B) of the CPEUM; articles 11, 12, 13 and 26 of the American Convention on Human Rights, articles 1, 2 and 11 of the International Covenant on Economic, Social and Cultural Rights; articles 1 and 25 of the Universal Declaration of Human Rights and principle 1 of the Fundamental Principles of Official Statistics of the United Nations.
- p.4 The District Judge decided to dismiss the case, so a main and an adhesive *recurso de revision* was processed, which this Court heard through its power to assert jurisdiction.

## STUDY OF THE MERITS

### I. Review of validity of the *amparo* action

#### a) Exception to the principle of relativity of decisions

- p.30 First this Court reviewed whether the impossibility of giving general effects to a possible granting of *amparo* violates the principle of relativity of the decisions of this means of constitutional control.
- In this regard, the district judge who first heard the case considered that the granting of the *amparo* would obligate the responsible authority to generate the information that the affected party requested throughout the country, which would result in carrying out the censuses corresponding to the entire population. This would have an impact not only on the affected association, but on everyone who lives in the country, since according to the provisions of the Law, the information would necessarily be public, official and mandatory in national territory, which would violate the principle of relativity of the decisions that governs the *amparo* trial, which states that the effects of *amparo* decisions apply only to the parties involved in each particular case.
- p.34-35 To resolve this issue, this Court applied a precedent that establishes that in cases in which the *amparo* is filed by human rights organizations, this ground for invalidity cannot be applied when standing to defend social rights is alleged, since the judge must consider the nature of the act challenged and the right questioned, as well as the claim made. This is because the constitutional reform in human rights modified both the traditional concept of standing and the principle of relativity, so it is essential to take into account the new

constitutional parameters to resolve amparo lawsuits, as well as the effects of their granting.

- p.35 In this regard, this Court must verify whether the authorities failed to comply with obligations established by law, which is why any granting of the amparo would obligate them to carry out such acts in respect of the right to housing.
- p.35-36 The lack of statistical information affects not only the organization filing the amparo, but also those it defends; i.e., those who, due to their social status of marginalization, have not been favored with the enjoyment of the fundamental right to housing. For this reason, the benefit that would eventually be generated with the granting of the amparo would not radiate through the entire population.

### **b) Standing**

- p.36 Subsequently, this Court resolved the grievance regarding the failure to show standing on the part of the affected organization, concluding that said organization does have the standing necessary to file the amparo.
- p.40 In this regard, the First Chamber of this Court decision in the *Amparo en Revision* 323/201420 on the standing of civil associations in defense of a class action was applied, where it was stated that the following must be considered: i) the nature of the right; ii) the corporate purpose of the association, and iii) the alleged impact. This is to be able to estimate whether or not the claim has significance in the legal sphere of the affected entity.
- p. 51 In this context, it is noted that the affected organization has standing; i.e., the necessary conditions to defend the right to housing due to the lack of statistical information related to informal human settlements. This follows from considering that the situation of the organization in the legal system may be particular, special and qualified, since it may not be able to fulfill its corporate purpose, which is directly related to the right to housing.
- p.53 Therefore, an eventual granting of the amparo would generate a specific benefit for Techo that would allow it to optimally exercise its corporate purpose, which consists of carrying out actions that it considers indispensable to comply with the protection of the right to housing. This is because the case claims INEGI's failure to comply with its powers to issue statistical information that could have an impact on public policies that should be

implemented regarding the right to housing of vulnerable groups living in informal settlements.

## **II. Obligations of INEGI regarding the generation of statistical information on informal human settlements**

p.54-55 Techo alleges that INEGI's failure to issue the statistical information it requested, mainly related to informal human settlements, violates the human rights not to be discriminated against and to decent housing, by impeding, due to the lack of such information, the ability of state public policies to address the multiple violations suffered by unprotected groups living in those areas. In this regard, this Court considered that the grounds of violation are well founded and that INEGI has the obligation to issue that information.

p.54-55 To this end, this Court takes into account that article 3 of the legislation governing INEGI establishes that its main attribution is to provide society and the State with quality, relevant, accurate, and timely information, in order to contribute to national development. Therefore, the fact that other authorities also have certain powers related to the prevention, control and solution of irregular human settlements does not prevent INEGI from also intervening in this problem since it is responsible for issuing the aforementioned information.

p.71 The right to decent housing that Techo defends includes the necessary measures to prevent insufficient housing, prohibit forced evictions, fight discrimination, focus on the most vulnerable and marginalized groups, ensure security in occupancy and ensure housing is adequate.

p. 73 In this regard, the United Nation's definition of informal human settlements is relevant, which states they exist where: a) the inhabitants do not have the right of occupancy over the lands or homes in which they live, under the modalities that range from the illegal occupation of a house to informal rent; b) the neighborhoods usually lack basic services and urban infrastructure, and c) the houses would not comply with building and planning regulations and are usually located in geographically and environmentally hazardous areas.

- p.73-74 Given the above, this Court considers that the informal settlements are the neediest and most excluded communities and are characterized by poverty and large agglomerations of houses in poor condition, located, in general, in the most hazardous areas.
- p.74 In addition to the instability of the right to occupancy, informal settlement inhabitants do not have basic infrastructure and services, public space or green areas, and are constantly exposed to eviction, disease, and violence. This shows aspects of the right to decent housing that imply a minimum duty of the State to adopt public policies to reduce the problems experienced by people who reside in these places.
- p.75 Based on the legal framework specified above, INEGI has the exclusive attribution of providing society and the State with quality, relevant, accurate and timely statistical and geographical information, so the authorities in turn can fulfill their obligation to promote, respect, protect and, above all, guarantee fundamental rights, including the right to housing. In order to guarantee respect for this right, the State must take immediate measures to allow access to housing without discrimination. Therefore, it is consistent with this purpose for INEGI, in the exercise of its exclusive powers, to generate effective statistical and geographical information that provides the State with the tools to implement the necessary public policies in those sectors of the population most unprotected, such as informal or irregular settlements.
- p.76-77 It follows that statistical information relating to irregular or informal settlements must be issued in the disaggregated or segmented form requested by Techo; since that information can provide the necessary elements to reduce poverty conditions by declaring priority areas for budgetary allocation and, therefore, plans and programs may be drawn up to improve the conditions of the irregular settlements inhabitants.

### DECISION

- p.114 Given that Techo's grounds for complaint are well-founded, the *amparo* is granted and the appealed decision is reversed so that INEGI may generate, obtain, analyze, process and publish statistical information on housing related to informal human settlements.