

Looking forward the achievement of international financial integrity, we consider the interim report to fully cover the reviews of the current challenges and trends related to financial accountability, tax abuse, transparency and integrity, as it provides evidence-based recommendations in order to close remaining gaps in the international system, its vulnerabilities, impediments and structural challenges for cross-cutting issues, cooperation in tax matters, public reporting and anticorruption. Although we claim that in addressing these issues, the support of Civil Society Organizations in the legal battles to counter corruption results of main importance. This led us to provide the following considerations:

## **LEGITIMATE INTEREST OF CIVIL SOCIETY ORGANIZATIONS IN THE CONSTITUTIONAL PROCEEDINGS AS A DEFENSE METHOD TO COUNTER CORRUPTION**

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 role of civil society organizations in the defense of these interests is crucial in any constitutional democracy. We present some considerations about the comprehension given to the concept of *legitimate interest*<sup>1</sup> for civil society organizations as members of the so called third sector. Under the Mexican system *legitimate interest* is referred to (with its "insurances") as a "legal standing".

### **I. LEGITIMATE INTEREST**

Striving for the United Nations Convention against Corruption (UNCAC), and in the context that corruption violates human rights, Civil Society Organizations (CSOs) face several challenges on the legal grounds in their efforts to counter it.

Legitimate interest is a concept of open texture that over the years has been complex to define. The doctrine agrees on the ambiguity of the concept and on the fact that it is up to the jurisprudential work to define the conceptual boundaries and identifying notes of the concept.

From the main identity notes of the legitimate interest according to the praetorian construction of the First Chamber of the Supreme Court we can highlight the following:

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<sup>1</sup> A legitimate interest is a legal standard used by a court in a legal proceeding. The standard is used to determine whether a party has a specific stake in the legal issue that the court is hearing. Courts usually use the legitimate interest standard to determine whether an enforcing party has a protectable and legitimate interest that allows them to create some type of restriction or perform a specific legal action.

- a. An individual or collective interest, qualified, current, real and legally relevant interest of the complaining party, protected by a constitutional provision.
- b. A link between the fundamental rights transgressed and the complaining party, in order to identify a grievance different from the rest of the members of society.
- c. A legal benefit in favor of the complainant in the event that the *amparo* is granted, derived from the reparation of the impairment in his legal sphere.
- d. A real impact on the complainant's legal sphere, assessed on the basis of a parameter of reasonableness and not just a mere possibility.

Assessing the legitimate interest of private moral persons in the "third sector", as civil society organizations (CSOs), is a great challenge, since these are moral persons generally marked by altruism and philanthropy, by the desire to seek the good of others.

The Political Constitution of Mexico City recognizes the right to defend human rights in Article 6, paragraph G. Would not the legal entities that are constituted with the purpose of defending human rights have, for that reason alone, a permanent and absolute legitimate interest? Would not denying them legitimacy imply depriving them of carrying out their social purpose?

Out of a practical analysis of the legitimate interest of civil society organizations, in the constitutional proceeding against the designation of the Human Rights Prosecutor of Mexico we can highlight that when resolving the *amparo* proceeding, the acting secretary of the district judge dismissed the trial for lack of legitimate interest. He argued that the provision of "defense of human rights and vulnerable groups" in the social object of the complaining organization was not sufficient to prove legitimate interest. He pointed out that if, in the instant case, what was claimed was the violation of the human right to good public administration, the social purpose of the complainant should have made express reference to that right, since a generic provision for the "defense of human rights" does not grant any legitimate interest.

This evidentiates the resistance of the organs of the Judicial Council and Public Administration around the legitimate interest. Of the 40,000 registered organizations in Mexico, approximately 2,000 organizations have a special interest in issues related to accountability, transparency, combating corruption and defending human rights. The alleged lack of legitimate interest has meant that human rights violations are not analyzed - for merely technical or procedural reasons - and therefore these cases escape judicial scrutiny.

## II. LEGITIMATE INTEREST AS AN OPPORTUNITY TO COMPLY WITH INTERNATIONAL STANDARDS IN THE BATTLE AGAINST CORRUPTION

Corruption impacts society from different perspectives. It affects political, economic, financial, and social issues, as well as institutional and administrative management issues. To this end, corruption makes it difficult or impossible for the justice system to act, restricts the citizen vote, increases current spending, increases inefficient public spending, generates black markets, reduces the productivity of public investment and acts as an arbitrary tax. This phenomenon erodes confidence in the State and impacts the political legitimacy of public actors.



The importance of the liaison with civil society organizations and the media lies in the fact that it enables a nationwide database to disseminate good government practices and initiatives driven by civil society and the media can provide an effective control of corruption in times of epidemics.

We consider that there is a need to rethink the legitimacy of these organizations under standards other than legitimate interest. The rules established for civil society organizations to accredit legitimate interest are excessive. This creates barriers that limit the right to association and the right to access an effective remedy. In order to guarantee the rights of civil organizations, the technical barriers that have been imposed by the courts in Mexico over the years must be lowered.

The existing problem of legitimate interest could be corrected through the legislative process. In the Mexican case, a legal reform to the Law of Protection and the Federal Law of Promotion of Activities carried out by Civil Society Organizations. For example, from this analysis and perspective, the above would lead to a definition in article 4, section I of the *Amparo* Law as follows: "*Civil society organizations, citizen collectives and groups of human rights defenders may defend supra-individual interests and objective rights.*" In addition, it would allow to delimit Article 8 of the Federal Law on the Promotion of Activities by Civil Society Organizations by stating that "upon its enrollment at the Register [Federal Register of Civil Society Organizations], the organization in question shall be considered to have a legitimate interest in defending supra-individual interests and objective rights in the amparo proceeding.

Regulations and precedents must recognize -as the Constitution of Mexico City already does- the existence of the right to defend human rights, as a parameter for recognizing the legitimate interest of civil organizations.

Addressing legal gaps and systemic barriers for the CSOs requires a basic understanding of its legitimation in the *amparo* proceedings in order to betake the structural deficiencies that hinders the counter of corruption and state responsibility. This is why it becomes relevant in the enhancement of financial accountability, transparency and integrity.