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as a Right of Access to Justice.

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"DILIGITE JUSTITIAM QUI JUDICATIS TERRAM." "Ye who judge the earth, give diligent love to justice"

The Public Defender in America as a Right of Access to Justice.

by Gerardo Reyes.

Judicial mechanisms and jurisdictional procedures were created with the aim of granting justice to all people. Nevertheless, the establishment of the First Instance, Appeals Courts and Human Rights or Constitutional Tribunals are not enough for each state to provide justice.

There is no proper right to justice when people who want to present claims, do not have the judicial knowledge and do not have an attorney who assists them in their trial. When this happens, the efforts made to create Courts and Tribunals are useless.

There is no point in having the best Courts in the world, if the people who need them cannot have access to diverse instances because of the lack of funds or access to legal knowledge. It is more important for human dignity to have a Public Defender¹ than have the most modern Tribunals.

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In America, the signatory States of the “American Convention on Human Rights”² not only have the obligation to respect the rights included in the pact of “San José, Costa Rica”, they must guarantee those rights in accordance with articles 1.1, 1.2 and 2 of the regional covenant.

To guarantee those rights means that the State must facilitate the conditions to have an adequate right of justice. Therefore, to have full right of justice it is necessary to add a Public Defender to the legal system who will be the bridge that help vulnerable people to obtain access to justice. Article 8.1 of the American Convention on Human Rights establishes that:

“Every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature.”³

To accomplish the “right to fair trial” it is important for the judicial system to add all possible mechanisms that help the people to obtain the proper access to independent and impartial tribunals, like the Public Defenders.

1.- Lawyers provided by the government.

2.- Subscribed in San José, Costa Rica in November 22, 1969 and in full force and effect in July 18, 1978.

3.- Article 8 “Right to fair trial” of American Convention on Human Rights.

Before the “American Convention on Human Rights”, some American States agreed in 1948 at the “American Declaration of the Rights and Duties of Man”⁴ to have within its organization a complete regulated system of justice⁵ in order to fulfil this right to justice.

Despite the fact that the American Covenant signatory states must facilitate the conditions to have an adequate right to justice. The Organization of American States subscribed the “Protocol of San Salvador”⁶ on November 17, 1998, relative to the economic, social and cultural rights which obliges the State Parties to accomplish this with the progressivity principle in each right protected by international human rights instruments.

The progressivity principle according with the articles 1 and 2 of the “Protocol of San Salvador” forces the signatory states to enforce measures in order to modify the domestic law or modify any domestic structure to guarantee “full realization of rights”⁷.

In a personal perspective, in order to provide the proper right of justice to all the people that do not have the resources or the knowledge to have access to the judicial system, it is necessary that the State provide Public Defenders, in order to remove vulnerable people from this disadvantageous situation.

The figure of Public Defender also exists in national law systems, one example of an international Public Defender is the “Inter-American Defender”⁸ that is the “person whom the Inter-American Court designates to undertake legal representation of an alleged victim that has not designated an advocate”⁹ in order to fulfill the adequate right of justice at the Inter-American Human Rights System.

“The progressivity principle according with the articles 1 and 2 of the “Protocol of San Salvador” forces the signatory states to enforce measures in order to modify the domestic law or modify any domestic structure to guarantee “full realization of rights”.

Besides the characteristics of the Article 8.1 of the American Convention on Human Rights, it is also required to have a full right of justice in order to implement all the necessary legal mechanisms that can help all people to have access to judicial procedures and drop the belief that “if there are Courts, there is justice”.

4.- Approved at Bogotá, Colombia in 1948.

5.- Articles XVIII, XXIV and XXVI of the American Declaration of Rights and Duties of Man.

6.- “Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights”. In full force and effect in November 16, 1999.

7.- Article 1 “Protocol of San Salvador”.

8.- Article 37 of the “Rules of Procedure of the Inter-American Court of Human Rights”.

9.- Article 2.1 of the “Rules of Procedure of the Inter-American Court of Human Rights”.



Mexico faces challenges in the automotive sector.

Industrial leaders agree that the automotive industry in Mexico has big challenges for the upcoming years with the announcement of producing 5 million cars per year by 2020. One of those challenges is how to incorporate national companies into the supply chain. This supply chain demands a high productivity and quality of the products. In this matter, Ernesto Warnholtz, the Kostal Mexico's President, considered that there is an important challenge focused in the personnel training to boost the expertise of the automotive sector workers. Currently, the first specialization for this sector will be developed by the Automotive University in Queretaro. www.eleconomista.com 18/08/15.

SHCP Lowers Economic Forecast because of Peso.

On August 19th Mexican peso hit another historic low against the US dollar closing on 16.52 per dollar. Due to this decline in the Mexican currency the Mexican Treasury and Public Finance Secretariat (SHCP) has lowered its economic forecast from an estimate of 2.2% to 3.2% growth to 2% to 2.8% growth. According to analysts this is due to the rise in interests in the United States as well as the lower prices for oil which is one of the main drivers of the Mexican economy. www.theyucatantimes.com 24/08/2015.

Oil industry companies seek for the second bid.

Fourteen companies were approved to participate in the second bidding of the Round One for the exploitation of shallow waters in the Gulf of Mexico, reported the National Hydrocarbons Commission (CNH). Some of the companies that participate individually are: Chevron, CNOOC, Spanish Oil Company, Statoil and Shell. The participating companies under a consortium agreement are: Eni International and Exploration House; Petronas Carigali with GALP Energy; Talos Energy with Sierra Oil and Gas and Carso Oil and Gas. The second bidding call in Round One includes nine fields in shallow waters of the Gulf of Mexico to be awarded by five contracts with certified reserve 2P. www.mexico-now.com 25/08/2015.

Its open the first new rail link between Mexico, US.

The United States and Mexico opened their first new rail link in more than 100 years as part of plans to update infrastructure. The West Rail Bypass International Bridge connects Brownsville, Texas with the city of Matamoros, Tamaulipas. Officials from both countries were on hand to inaugurate the service, which will permit the passage of 14 trains a day. The objective is to improve infrastructure in order to increase the trade between Mexico and the U.S. www.mexiconewsdaily.com 26/08/15.

President Enrique Peña Nieto Changes his Presidential Cabinet.

After three year in power Mexican President Enrique Peña Nieto has made for the first time a serious alteration to his presidential Cabinet. Despite him having changed Attorney General Jesus Muriilo Karam earlier this year Peña Nieto's Cabinet saw very few changes. Now he has announced the change in ten Governmental entities leaving 6 people out completely and four people assuming new roles in the public administration. According to Peña Nieto these changes will help with Mexico's transformation; something he promised since taking the position in 2012. www.animalpolitico.com 27/08/15.

Guanajuato receives U.S. investment.

The American company SRG Global will expand its plant in the Castro del Rio Industrial Park in Irapuato, Guanajuato, in order to double its production by 2017. The expansion will be made in an area of 20,000 m2. The plant will have a state-of-the-art chromating line, considered one of the most modern lines in this kind of technology. The investment in this new facility is per US\$75 million and will help to reach the 500 jobs generated. Some of SRG Global customers include Ford, General Motors, Nissan, Honda; in addition to Tier 1 suppliers as Kasai, among others. The Governor of the State, Miguel Marquez Marquez, said that Guanajuato has become an attraction pole of the most important investments in the country for this sector, as 3 in 10 dollars of foreign investment are allocated to the Entity. eleconomista.com.mx 27/08/15.

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