



SPOTLIGHT ON PUBLICATIONS: HUMAN RIGHTS IN LATIN AMERICA



Strong national human rights institutions, an active regional human rights court, a human rights approach to budgeting and strategic litigation by civil society: these are just some of the innovative approaches Latin American countries are taking to improve human rights across the region. The publications presented in this Spotlight provide insight into some of the key issues and experiences from Latin America, with a particular focus on democratic and judicial reform, the role of regional and national courts in upholding human rights, innovative oversight mechanisms, strategic litigation and emerging hot topics such as anti-corruption strategies.

DEMOCRATIC REFORMS AND HUMAN RIGHTS

► [Civil Society and Social Movements: Building Sustainable Democracies in Latin America](#)

This publication highlights the role of civil society and social movements in driving, strengthening and deepening democracy in Latin America. Citing various country case studies, the author shows that Latin American civil society organisations (CSOs) have made several important contributions, including publicly denouncing gross human rights violations during dictatorships, promoting citizen oversight of state institutions, legislation and policy advocacy, and demanding social justice and the safeguarding of human rights at national and regional courts.

Full citation: Domike, A. (ed). 2008. *Civil Society and Social Movements: Building Sustainable Democracies in Latin America*. Inter-American Development Bank, Washington, DC.

► [Contribution of Truth, Justice and Reparation Policies to Latin American Democracies](#)

Latin American countries have driven forward processes of truth, justice and reparation in an attempt to address gross violations of human rights. In this article, the Inter-American Institute of Human Rights presents an analysis of eight country case studies (Argentina, Chile, Colombia, Ecuador, El Salvador, Guatemala, Paraguay and Peru) and identifies how government policy is contributing to building sustainable, inclusive and effective democratic societies in Latin America. One common feature is the unique role played by truth commissions in investigating abuses, promoting victim recognition and building a collective memory. Lessons derived from these studies might be useful and replicable in other contexts.

Full citation: Beristain, C. M. 2011. *Contribution of Truth, Justice and Reparation Policies to Latin American Democracies*. Inter-American Institute of Human Rights, San José.



▶ [Democratic Reform and Injustice in Latin America: The Citizenship Gap between Law and Society](#)

Transition to democracy in Latin America has given rise to interesting and complex developments in new political systems, in which elections, public policy, laws and institutions reflect increasing government commitment to uphold human rights. Despite this progress, Latin America continues to face serious problems of social inequity which calls into question the effectiveness of democratic reforms in the region. The author of this essay urges for more comprehensive reform, including citizen oversight mechanisms and a stronger human rights agenda.

Full citation: Brysk, A. 2008. Democratic Reform and Injustice in Latin America: The Citizenship Gap between Law and Society. *Whitehead Journal of Diplomacy and International Relation* 9(1) 55-69.

▶ [The Democratic Transitions in Mexico and Latin America in the Late 20th Century](#)

Human rights in Latin America are framed within a broader context of democratic transitions pursued by many countries in the region since the late 1980s. This paper identifies common trends in transitional processes across the region and reveals that, in many cases, these processes were inspired by pacts between civil and military elites aimed at establishing competitive elections, transforming public institutions and protecting civil and political rights. The author highlights the case of Mexico, where during 2000, democratic processes were driven by an educated and urbanised population demanding greater political and social participation and the defeat of the ruling party. According to the author, the main challenges facing Mexico and other Latin American countries today are strengthening democracy and institutionalising human rights.

Full citation: 2005. The Democratic Transitions in Mexico and Latin America in the Late 20th Century. *Economía y Sociedad* 10(16) 99-116.

▶ [The Evolution of Democracy and Human Rights in Latin America: A Ten Year Perspective](#)

Analysing contributions made by the Organization of American States, the Inter-American Commission on Human Rights and the Inter-American Court on Human Rights at different moments in Latin American history, the author of this article concludes that regional institutions have played a key role in strengthening transitions towards new political systems aimed at mainstreaming human rights into all aspects of governance. The author also points out current challenges to the consolidation of democracy in the region, such as social exclusion, particularly of indigenous groups, and the urgent need to address economic, social and cultural rights within a broader framework of human rights.

Full citation: Picado, S. 2004. The Evolution of Democracy and Human Rights in Latin America: A Ten Year Perspective. *Human Rights Brief* 11(3) 28-31.

HUMAN RIGHTS LEGAL FRAMEWORKS

▶ [The Human Rights Regime in the Americas](#)

This policy brief summarises the context, development and future of the human rights regime in Latin America. The authors argue that in order to deal adequately with the emergence of new issues like discrimination, access to land and collective rights, governments must push forward reforms in human rights policy and strengthen judicial reforms to promote and protect economic, social and cultural rights. State capacity building is also required in order to inspire and guide these strategies.

Full citation: Popovsky, V. et al. 2008. *The Human Rights Regime in the Americas*. United Nations University, Tokyo.



► [The Recent Transformation of Constitutional Law in Latin America: Trends and Challenges](#)

This article, written by Rodrigo Uprimny, an important legal scholar in Colombia, represents an innovative attempt to analyse the evolution of constitutionalism in Latin America. It specifically identifies common features and challenges shared by different countries during this important period, with a particular focus on strengthening democratic institutions, human rights, progress towards more egalitarian societies and mechanisms promoting a more participative and plural citizenship.

Full citation: Uprimny, R. 2011. The Recent Transformations of Constitutional Law in Latin America: Trends and Challenges. *Texas Law Review* 89 1587-1609.

► [Action Lines to Strengthen the Process of Seeking Truth and Justice](#)

This report has been published by the [Centre for Legal and Social Studies](#) (*Centro de Estudios Legales y Sociales – CELS*), an Argentinean CSO that promotes the right to truth, justice, and integral redress for victims of human rights violations and their families. Based on the experience of CELS over the last 23 years, the publication suggests some lines of action for strengthening state institutions responsible for coordinating processes of memory, truth and justice. In particular, CELS proposes two key actions: creating a Special Program for Truth and Justice within the executive power and establishing a specific body in charge of coordinating legal action.

Full citation: Centro de Estudios Legales y Sociales (CELS). 2007. *Action Lines to Strengthen the Process of Seeking Truth and Justice*. CELS, Buenos Aires.

THE ROLE OF NATIONAL AND REGIONAL COURTS

► [The Inter-American Court and Constitutionalism in Latin America](#)

The Inter-American Court of Human Rights has strongly influenced the role of national courts in mainstreaming international instruments for human rights into national frameworks. By analysing four emblematic cases - amnesty laws, investigation of human rights violations, the right to effective remedy and indigenous peoples' rights - García-Sayán shows how the Inter-American Court has contributed to the interpretation of international norms and has guaranteed high standards of human rights. In each of the case studies, national courts have driven forward amendments to legal frameworks and monitored government commitment to human rights. In Colombia and Peru, for example, the national courts have adopted innovative concepts that reflect the pluralism of Latin American societies as in the case of indigenous peoples' rights.

Full citation: García-Sayán, D. 2011. The Inter-American Court and Constitutionalism in Latin America. *Texas Law Review* 89 1835-1862.

► [The Inter-American System of Human Rights: Challenges for the Future](#)

This article provides a detailed analysis of the evolution of the Inter-American System of Human Rights during three principal phases. Firstly, the author describes how institutions dealt with dictatorial regimes and gross human rights abuses. Second, he sheds light on the treatment of issues such as impunity, freedom of expression and due process which arose during transitions to democracy. Finally, he examines the current phase which presents particular challenges relating to exclusion and inequality. The author concludes that while the Inter-American System has helped to define the obligations of governments to uphold human rights, the operation of the System itself is highly dependent on the political will of member states and this may represent a threat to the effectiveness of its resolutions and work.

Full citation: Grossman, C. 2008. The Inter-American System of Human Rights: Challenges for the Future. *Indiana Law Journal* 83 1267-1282.



► [The Latin American Amparo Proceeding and the Writ of Amparo in the Philippines](#)

In this article, Allan R Brewer-Carías, an important Venezuelan legal scholar, analyses the *amparo* proceeding in Latin America, one of the most important judicial remedies specifically conceived for the protection of constitutional rights. The remedy was developed for the first time in Mexico in the 19th Century and has since influenced the whole region. The legal and institutional development of this procedure in Latin America has also inspired other countries, such as the Philippines, to implement progressive human rights protection procedures including a wide range of rights. This article provides a comparative overview of these experiences.

Full citation: Brewer-Carías, A. 2009. The Latin American Amparo Proceeding and the Writ of Amparo in the Philippines. *City University of Hong Kong Law Review* 1(1) 73-90.

► [Reevaluating Regional Human Rights Litigation in the Twenty-First Century: The Case of the Inter-American Court](#)

Although regional human rights commissions and courts have increased in number and activity over recent decades, important gaps remain between the recommendations they make and how these are implemented in practice. The authors draw on case studies to provide a critique of the Inter-American Human Rights System, and in particular the Inter-American Human Rights Commission and Court. This paper could be of use to experts and practitioners from other regions interested in understanding the key characteristics of strong regional human rights institutions.

Full citation: Cavallaro, J., Brewer, S. 2008. Reevaluating Regional Human Rights Litigation in the Twenty-First Century: The Case of the Inter-American Court. *American Journal of International Law* 102 768-827.

JUDICIAL REFORM

► [Access to Information and Transparency in the Judiciary: A Guide to Good Practice From Latin America](#)

This publication represents a joint effort between the World Bank Institute and the Association for Civil Rights (*Asociación por los Derechos Civiles* - ADC) to promote access to information and transparency in various government departments, and with a particular focus on the judiciary and its new role in Latin American democracies. By presenting experiences from Latin American countries, the authors highlight progress relating to strengthening institutional capacity, legitimacy and relationships with citizens. CSOs have played a strategic role in developing innovative citizen oversight mechanisms for public policies and institutions, such as Observatories (*Observatorios*), which have become prominent in countries like Bolivia, Colombia, Ecuador, Mexico and Peru.

Full citation: Herrero, A., López, G. 2010. *Access to Information and Transparency in the Judiciary: A Guide to Good Practice From Latin America*. Governance Working Paper Series. World Bank, Washington, DC.



▶ [Judicial Reform in Latin America: An Assessment](#)

The transition to democracy in Latin America was expected to renew the existing political and institutional systems, thereby leading to greater transparency, accountability and human rights protection. In several countries, attempts were made to transform the judiciary into a more efficient, independent and professional institution. However, evidence from six countries (Argentina, Chile, Colombia, Guatemala, Peru and Venezuela) shows that despite making progress towards the safeguarding of human rights, many justice systems are still slow and inefficient with no independence in decision making processes. The authors of this paper make several recommendations to support a comprehensive judicial reform process focused on strategies aimed at improving personal skills and increasing transparency mechanisms.

Full citation: De Shazo, P., Vargas, J. E. 2006. *Judicial Reform in Latin America. An Assessment. Policy Papers on the Americas*. Volume XVII, Study 2. Center for Strategic and International Studies, Washington, DC.

▶ [Digest of Latin American Jurisprudence on International Crimes - Volume II](#)

A new paradigm for dealing with impunity and trying past crimes has been gaining importance in Latin America. Instead of the supranational mechanisms that used to play a key role in this respect, nowadays constitutional and criminal courts at the domestic level are leading the way. This volume showcases groundbreaking judicial decisions on issues of transitional justice issues to highlight advances made across the region. Readers will find in-depth analysis on new theories and concepts as well as information on rulings on emerging issues such as sexual crime and forced displacement. Debates on criminal prosecution are also included in this volume. This publication is a valuable effort to systematise experiences from across Latin America, including Chile, El Salvador, Guatemala and Peru, and will provide useful lessons for readers from other regions of the world facing post conflict challenges or recovering from antidemocratic periods.

Full citation: Medellín Urquiaga X. 2013. *Digest of Latin American Jurisprudence on International Crimes- Volume II*. Due Process of Law Foundation. Washington DC.

STRATEGIC LITIGATION

▶ [Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America](#)

In countries like Argentina and Colombia, the judiciary has upheld Economic, Social and Cultural Rights (ESCR) in emblematic cases brought by excluded groups. This active role of the judiciary, and the bringing forward of these emblematic cases, also known as 'strategic litigation', has helped to broaden the debate on whether or not ESCR – fundamental for social change and democracy - should be considered human rights. The authors of this article indicate that strategic litigation and monitoring through participatory mechanisms are crucial to ensure the effective realisation of these rights. Likewise, they argue that dialogue between the judiciary, governments and civil society can produce innovative policies.

Full citation: Rodríguez-Garavito, C. 2011. Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America. *Texas Law Review* 89 1669-1698.



► [Strategic Litigation as a Tool for the Enforceability of the Right to Education: Possibilities and Obstacles](#)

This book is the result of a high-level workshop held by the Association for Civil Rights (ADC) and the Institute for Economic and Social Development (IDES) with the aim of stimulating debate on the potential uses, weaknesses and benefits of strategic litigation as a tool for social change, particularly in education in Latin America. Even though most Latin American countries acknowledge the right to education in national frameworks, normative definitions and standards still need to be clarified. According to workshop discussions, strategic litigation seems to provide an appropriate tool for advancing the right to education and should be integrated into a complex strategy with political objectives and a substantive agenda.

Full citation: Association for Civil Rights (ADC). 2008. *Strategic Litigation as a Tool for the Enforceability of the Right to Education: Possibilities and Obstacles*. Results of the workshop 'Using Strategic Litigation for the Enforceability of the Right to Education: Possibilities and Obstacles', held 20 May 2008.

EMERGING TRENDS: ANTI-CORRUPTION, CRIME, MULTICULTURALISM AND MIGRATION

► [Dignity Counts: A Guide to Using Budget Analysis to Advance Human Rights](#)

In this guide, Fundar, the International Budget Project (IBP), and the International Human Rights Internship Program (IHRIP) bring together their expertise to demonstrate the benefits of budget monitoring for human rights work. Using the Mexican health sector as a case study, the authors find that budget allocation for the control and prevention of diseases is declining and that the country's poorest people are not benefiting from these services. This guide provides a step-by-step tool for CSOs interested in carrying out budget analyses.

Full citation: Fundar, International Budget Project (IBP), International Human Rights Internship Program (IHRIP). 2004. *Dignity Counts: A Guide to Using Budget Analysis to Advance Human Rights*. Fundar, IBP, IHRIP, Mexico City.

► [Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities](#)

The correlation between corruption and human rights violations has long been proven, but there had not been a clear description of the conceptual links that exist between human rights and anti-corruption movements. This International Council on Human Rights Policy (ICHRP) report aims to show where and how combining both agendas can strengthen these movements: in other words, how human rights standards can help strengthen anti-corruption strategies, and how these strategies can be made more accessible to human rights defenders. Through case studies and policy recommendations it identifies opportunities for cooperation between human rights and anti-corruption activists. This report has been designed as a practical guide and will be useful for policymakers and practitioners from other regions attempting to build this cooperation.

Full citation: International Council on Human Rights Policy (ICHRP). 2010. *Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities*. ICHRP, Geneva.



► [Report on Citizen Security and Human Rights](#)

In this report the Inter-American Commission on Human Rights provides a review of Latin American government measures to address violence and criminality. Many states have adopted authoritarian responses, as demonstrated by the enactment of laws which restrict citizen liberties and empower security institutions, often resulting in gross violations of human rights and more social violence. In this context, the report proposes a comprehensive review of the obligation of governments to provide security in a democratic context, respecting and protecting human rights. The Inter-American Commission identifies two main dimensions of security. The first dimension has to do with citizen security as a condition that may ensure the realisation of human rights; the second as a public policy with a human rights approach centred on preventive actions, social participation and accountability.

Full citation: Inter-American Commission on Human Rights. 2009. *Report on Citizen Security and Human Rights*. American Commission on Human Rights, Washington, DC.

► [Towards a Multicultural Conception of Human Rights](#)

In this article, the sociologist de Sousa Santos provides a critique of the traditional Western concept of human rights. Instead, he proposes that human rights be understood as emancipatory rights for individuals and communities to face globalisation, cultural fragmentation and political identity. In doing so, he calls for intercultural dialogue aimed at including new visions and cultures into human rights discussions, and promoting the sharing of common concerns and issues as a way to empower those who have been historically excluded.

Full citation: De Sousa Santos, B. 2002. Towards a Multicultural Conception of Human Rights. In: Hernández-Truyol, B. (ed). 2002. *Moral Imperialism: A Critical Anthology*. New York University Press, New York.

► [Violence and Migration in Central America](#)

This report explains that migration trends in Central America are strongly influenced by increasing levels of violence. While common motivations for migration tend to be associated with economic and family factors, the author demonstrates that crime and perceptions of insecurity are also key in determining the extent to which an individual considers migration as a viable strategy. Moreover, the author points out that corruption amongst public authorities also increases the likelihood that an individual will migrate. Finally, the author stresses that increasing levels of violence are affecting the migration decisions of a large amount of people in the region.

Full citation: Hiskey J., Malone, M. and Orcés, D. 2014. 'Violence and Migration In Central America'. In: *America's Barometer Insights: 2014*. 101. Vanderbilt University, Nashville, TN.

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To learn more about these and other publications on human rights in Latin America, contact the author, Cecilia Toledo, ELLA Project Researcher, and an expert in human rights, at cecilia@fundar.org.mx.



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