



SPOTLIGHT ON PUBLICATIONS: JUDICIAL REVIEW FOR ENFORCING HUMAN RIGHTS IN LATIN AMERICA



In the face of persistent and systematic human rights violations, lawsuits are increasingly being brought before Latin American courts. Through cutting edge rulings, courts in the region have ordered the executive and legislative branches of government to allocate budgets and implement public policies that can effectively realise human rights. The following list of key publications presents various cases from the region and provides insight into the role of the judiciary and other actors – such as public agencies, legislators, plaintiffs, civil society, scholars, and activists – in implementing, enforcing and monitoring compliance of the rulings.

To learn more about these and other specific cases of judicial review for enforcing human rights in Latin America, see the [ELLA Brief: Judicial Rulings with Public Policy and Budget Implications: An Innovative Way to Enforce Human Rights in Latin America](#).

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

In this publication, the author focuses on key paradigmatic rulings of the Colombian Constitutional Court related to forced displacement, access to health and prisoners' rights. This article analyses the various effects of these rulings, such as introducing the issue into public debate, improving the coordination of public agencies and restoring the rights of specific groups of people. The author also discusses the theoretical and practical development of judicial activism in different regions of the world, allowing readers to understand the current state of the art in terms of judicial engagement for human rights. In addition to Colombia, the publication showcases other rulings on social and economic rights from other Latin American countries such as Argentina, Brazil, Colombia and Costa Rica, as well as countries from other regions, including India, South Africa and the US.

Full citation: Rodríguez-Garavito, C. 2011. Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America. *Texas Law Review* 89(7) 1669-1698.

► [Can Litigation Clean Rivers? Assessing the Policy Impact of "the Mendoza Case" in Argentina](#)

This brief describes the 2008 Mendoza case in Argentina, a paradigmatic court case relating to the enforcement of the right to a healthy environment. The brief describes the public problem that the case addressed and the conditions that enabled a favourable and progressive ruling. The publication also examines the policy impacts and consequences of the ruling thus far. Readers will find this publication useful and novel, providing a quality assessment of the lawsuit and focusing on analysing the policy impacts of the rulings, something that many publications on strategic litigation do not usually consider.

Full citation: Staveland-Sæter, K. 2012. *Can Litigation Clean Rivers? Assessing the Policy Impact of "the Mendoza Case" in Argentina*. Chr. Michelsen Institute (CMI) Brief Vol. 11 No. 3. CMI, Bergen.



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

The purpose of Uprimny's article is to look at the commonalities and differences of the recent constitutional reforms that almost all Latin American countries have undergone. The author's analysis is useful for readers aiming to understand how these reforms have broadened the protection of human rights and have strengthened the judiciary's role throughout the Latin America region. Human rights activists and litigants from all over the world will likely benefit from reviewing this article, as it describes and presents the different mechanisms that exist in the Latin America region to protect and enforce human rights.

Full citation: Uprimny, R. 2001. The Recent Transformation of Constitutional Law in Latin America: Trends and Challenges. *Texas Law Review* 89(7): 1587-1609.

▶ [The Right to Health in the Courts of Brazil: Worsening Health Inequities?](#)

This article takes a different perspective on strategic litigation for human rights, arguing that the increase in these cases in Brazil is actually making inequality in access to health worse. The paper critically analyses cases brought before the Brazilian courts concerning the right to health, looking to identify the effects that these cases' rulings have had on the right to health and the courts' interpretations about health rights. Interestingly, the article argues that in Brazil, both, the way cases have been filed - meaning by individuals rather than large groups of plaintiffs - and the judges' interpretations - which have granted entitlements but only to the individual plaintiffs - have prevented the use of strategic litigation as a tool to broaden and enforce the right to health of large groups of people or of society as a whole.

Full citation: Motta Ferraz, O. L. 2009. The Right to Health in the Courts of Brazil: Worsening Health Inequities? *Health and Human Rights* 11(2): 33-45.

▶ [Staying Alive: Public Interest Law in Contemporary Latin America](#)

Through a series of interviews with public interest lawyers, activists, academics and judges, this paper analyses the practice of strategic litigation in Argentina, Brazil and Chile; countries with a strong authoritarian past. In particular, the author focuses on identifying the different contextual factors that are preventing or enabling strategic litigation in the three countries studied, such as social movements, high levels of poverty, constitutional changes, reforms to strengthen the judiciary, judicialisation of rights and the global financial crisis. Practitioners bringing social rights cases before courts will likely benefit from understanding how and to what extent different contextual factors influence strategic litigation.

Full citation: Meili, S. 2009. *Staying Alive: Public Interest Law in Contemporary Latin America*. Minnesota Legal Studies Research Paper No. 09-48. University of Minnesota, Minneapolis.

CONTACT [FUNDAR](#)

For more information about these and other key resources, contact the author, Janet Oropeza Eng, ELLA Project Coordinator, at janet@fundar.org.mx.



FIND OUT MORE FROM [ELLA](#)

To learn more about human rights in Latin America, read the [ELLA Guide](#), which has a full list of the knowledge materials on this theme. To learn more about other ELLA Development issues, browse other [ELLA Themes](#).

ELLA is supported by:

