



Strong national human rights institutions, an active regional human rights court, a human rights approach to budgeting, civil society's strategic litigation: these are just some of Latin America's innovative approaches to addressing human rights.

## HUMAN RIGHTS IN LATIN AMERICA

### SUMMARY

Human rights have played a key role in ending dictatorships in Latin America, inspiring democracy, fostering social justice and generating a more empowered and active citizenship. This ELLA Guide highlights the key policies and practices that have made these advances possible. In particular, it focuses on two aspects of the Latin American experience. First, it explores the ways that states have implemented concrete legislative and public policy actions at the national and regional level to meet their obligations to protect and defend human rights. And second, the Guide highlights the impact of the activism of a vibrant civil society in using these mechanisms to promote and guarantee the realisation of human rights, and in creating oversight mechanisms to monitor states' compliance with their human rights obligations. In addition, the Guide points readers to key publications about Latin America's human rights experience and key organisations working on human rights within the region. The policies, practices and lessons presented in the Guide will be useful for policymakers, academics, human rights defenders, civil society organisations (CSOs) and donors from other regions interested in accessing the Latin American experience in advancing human rights.

### HUMAN RIGHTS IN THE LATIN AMERICAN CONTEXT: AN INTRODUCTION

Eight months before the Universal Declaration on Human Rights was proclaimed, the first regional human rights instruments - the [Charter of the Organization of American States](#) and the [American Declaration of the Rights and Duties of Man](#) - were being adopted. Later on, in 1969, the adoption of the [American Convention on Human Rights](#)<sup>1</sup> (American Convention) consolidated the regional system of human rights based on two important institutions: the [Inter-American Commission on Human Rights](#) (Inter-

<sup>1</sup> Currently [23 countries have signed and ratified the American Convention](#): Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Suriname and Uruguay.

### KEY LESSONS LEARNED

Building legislative and institutional frameworks inspired by adopting human rights norms represents the first step in creating a solid foundation to protect and defend human rights at the domestic level.

Latin America's regional and national courts have established advanced criteria in defining the scope and content of human rights and specific state obligations to ensure their effective realisation.

Latin American countries have started to undertake administrative, financial and even methodological changes to make human rights operational.



American Commission) and the [Inter-American Court of Human Rights](#) (Inter-American Court). Collectively, these institutions are known as the 'Inter-American System'.<sup>2</sup>

Instead of showing a true commitment to human rights, most Southern and Central American States were being governed by military dictatorships.<sup>3</sup> These authoritarian governments abolished civil liberties, destroyed political institutions and began suppressing social movements by committing grotesque forms of massive and systematic human rights violations like torture, forced disappearances and mass murders.<sup>4</sup> In that sense, it became clear that human rights were just seen by governments as principles to assume, without necessarily having any obligations to fulfil them.

From a social standpoint, the lack of civil liberties and the human rights violations committed by authoritarian governments gave greater urgency to civil society organisations (CSOs) aiming to end political repression.<sup>5</sup> Many CSOs came to adopt the existing human rights regional system as an instrument to demand truth and justice. In fact, individual petitions submitted to the Inter-American Commission during dictatorships served as the basis for preparing [Country Reports](#) in Chile, Nicaragua, Paraguay and Uruguay, and to denounce gross atrocities and violations of human rights in the region. Indeed, the regional courts' activism has helped to define states' obligations to human rights in the region.<sup>6</sup> During their transitions to democracy, most Latin American countries committed to undertake reforms to ensure political and electoral liberalism, recognising the existence of certain civil and political freedoms. Many states modified or adopted new constitutions to recognise Civil and Political Rights (CPR) such as privacy, due process, freedom of expression, and the right to vote; these constitutions also established Economic, Social, and Cultural Rights (ESCR), and even guaranteed collective rights.<sup>7</sup>

At the same time, this emerging and vibrant civil society was also pushing a new and broader human rights agenda to suit specific needs and local contexts, while

also respecting the cultural diversity of actors and their concrete demands.<sup>8</sup> From this point of view, CSOs helped to deepen democracy and ensure that every person, especially those from historically excluded groups, became engaged and included in public decision making processes.<sup>9</sup>

At the international level, there is a strong academic and juridical discussion related to states' obligation to fulfil ESCR. On the one hand, in regions like Europe, human rights are conceived as a conquest of civil, political and social rights, achieved progressively throughout history. So, according to Marshall,<sup>10</sup> "'substantive citizenship' can only be achieved when every person can fully exercise civil, political and social rights in the same level and with no regression."<sup>11</sup>

### HUMAN RIGHTS IN INTERNATIONAL AND REGIONAL INSTRUMENTS

Building on the [Universal Declaration of Human Rights](#) of 1948, in 1966 the UN General Assembly proposed the [International Covenant on Civil and Political Rights](#) (ICCPR) and the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR), both of which would be binding on states. In general terms, the ICCPR establishes civil and political rights related to freedom to action, while the ICESCR expresses economic and social rights that promote social equality.

In the regional system, the [American Declaration of the Rights and Duties of Man](#), non-binding on states, establishes that all persons are born free and equal, in dignity and in rights, and the fulfilment of duty by each individual is a prerequisite to the enjoyment of rights. In that sense, this instrument for the accomplishment of duties is a previous condition to the enjoyment of CPR and some ESCR.

The [American Convention on Human Rights](#) incorporates broader standards of CPR (Art. 3 to 25) as well as ESCR (Art. 26), and establishes states' general obligations to fulfil these rights. It also describes the different areas of competency of the Inter-American Commission and the Inter-American Court with respect to matters relating to the fulfilment of the commitments made by states (Art. 33 to 69).

<sup>2</sup> For additional background information about the Inter-American System, see the [ELLA Learning Material: The Role of the IAHRs in the Promotion of the Right to Information](#).

<sup>3</sup> Figueroa, Ibarra, C. 2001. [Dictaduras, Tortura y Terror en América Latina \(Dictatorships, Torture and Terror in Latin America\)](#). *Bajo el Volcán* 3 54-55.

<sup>4</sup> Méndez, J., Mariezcurrena, J. 2000. [Human Rights in Latin America and the Caribbean: A Regional Perspective](#). Paper submitted to the Human Development Report 2000 'Human Rights and Human Development'.

<sup>5</sup> Ibid.

<sup>6</sup> Picado, S. 2004. [The Evolution of Democracy and Human Rights in Latin America: A Ten Year Perspective](#). *Human Rights Brief* 11(3) 28-31.

<sup>7</sup> Uprimny, R. 2011. [The Recent Transformations of Constitutional Law in Latin America: Trends and Challenges](#). *Texas Law Review* 89 1587-1609.

<sup>8</sup> 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.

<sup>9</sup> Domike, A. (ed). 2008. [Civil Society and Social Movements. Building Sustainable Democracies in Latin America](#). Inter-American Development Bank, Washington, DC.

<sup>10</sup> Thomas Marshall was a British sociologist who wrote one of the most important essays on human rights, entitled "Citizenship and Social Class", where he managed to define the development of citizenship as the development of civil, political and social rights, establishing the idea of progressivity and non-regression.

<sup>11</sup> Guerrero Guerrero, A. L. 2010. [Derechos Humanos y Ciudadanía en América Latina \(Human Rights and Citizenship in Latin America\)](#). *Revista de Estudios Latinoamericanos* 51 109-139.



As for social rights, it has been the Welfare State model that ensures that every person, regardless of social class, exercises their social rights, such as to health and education.

But Latin America has not followed this path. Even if civil and political rights are more advanced in terms of being included in countries' domestic frameworks, the effective exercise of economic and social rights is far from being reached, given the prevailing context of social inequalities and exclusion.<sup>12</sup> There is also still a juridical debate between the nature of CPR and ESCR in terms of states' obligations. It is argued that CPR are negative obligations on the part of the state, such as not to arbitrarily detain, not to censor, and not to torture, while ESCR are realised through positive actions that require public funds.<sup>13</sup>

In Latin America, ESCR were seen as political aid programmes for the poor, aiming to assist the most vulnerable. In that sense, ESCR were programmatic actions whose implementation depended on the availability of public resources. But the development of international instruments on human rights and the role played by the Inter-American Court when solving social rights controversies<sup>14</sup> has helped to enforce the idea of ESCR as rights, and also include the so-called 'collective rights' that belong to certain communities like indigenous people. Thus, states have to observe their obligations to protect and defend human rights through domestic and institutional frameworks and take all steps necessary in every branch of the government to fulfil these rights without discrimination.<sup>15</sup>

Nowadays, Latin American countries present a contrasting panorama in terms of human rights. The 2011 Annual Report of the Inter-American Commission highlights some key advances in human rights, such as constitutional acknowledgment, protection of vulnerable groups and reparation for past crimes.<sup>16</sup> But at the same time, key human rights challenges persist, such as "the demand for justice and the end to impunity, the end of security policies which ignore human rights, (and) the failure to respect the rights of excluded groups like indigenous people, women, children and migrants".<sup>17</sup> Moreover, though household income

inequality has declined over the past 15 years, there are still some key areas like labour income inequality, access to education and eliminating childhood malnutrition, that show Latin American governments have yet to completely succeed in ensuring the full enjoyment of ECSR.<sup>18</sup> In that sense, adopting innovative mechanisms to promote human rights in a complex political and economic context is a common challenge that Latin America shares with other regions. Drawing on successful examples from the region, how has Latin America implemented strategies and actions to enforce human rights? What has been the role of civil society in ensuring their effective implementation? In answering these key questions, this Guide offers useful lessons learned for other developing regions seeking to advance human rights.

Research for this Guide was conducted through a review of available literature and published documents, including international and regional instruments on human rights, human rights documents of the Inter-American System, theoretical articles on legislative harmonisation, and academic research, such as from specialised legal journals. Additional sources of information were provided through the participation of Latin American experts who offered a theoretical framework and identified innovative experiences from the region.

## THE LATIN AMERICAN RESPONSE: FROM A STRONG LEGAL FRAMEWORK TO FULLY GUARANTEEING HUMAN RIGHTS

The variety of Latin American experiences in establishing mechanisms to meet the human rights obligations can be categorised into two types. The first has to do with states' obligations to protect and defend human rights by building a legal and institutional framework to enforce human rights at the domestic level. As it is analysed in this Guide, enacting the human rights embodied in the international and regional treaties states ratify is just the first step in states truly committing to their effective realisation.

<sup>12</sup> Ibid.

<sup>13</sup> Abramovich, V., Courtis, C. 2002. *Los Derechos Sociales como Derechos Exigibles (Social Rights as Demandable Rights)*. Trotta, Madrid.

<sup>14</sup> This is a case regarding workers' freedom of association. Refer to: Inter-American Court. 2002. [Case of Baena-Ricardo et al. vs. Panamá](#). February 2, 2001.

<sup>15</sup> See: Sepúlveda, M. 2003. *The Nature of the Obligations under the International Covenant on Economic, Social and Cultural Rights*. INTERSENTIA, Oxford; Abramovich, V., Courtis, C. 2002. *Los Derechos Sociales como Derechos Exigibles (Social Rights as Demandable Rights)*. Trotta, Madrid.; Melish T. 2003. *La Protección de los Derechos Económicos, Sociales y Culturales en el Sistema Interamericano: Manual para la Presentación de Casos (The Protection of Economic, Social and Cultural Rights in the Inter-American System: Manual for Presenting Cases)*. Center for International Human Rights, Yale Law School, Centro de Derechos Económicos y Sociales.

<sup>16</sup> Inter-American Commission on Human Rights (IACHR). 2011. [Annual Report 2011](#). IACHR, Washington, DC.

<sup>17</sup> Amnesty International. 2012. [The State of the World's Human Rights](#). Amnesty International, East Sussex.

<sup>18</sup> World Bank. 2011. [A Break with History: Fifteen Years of Inequality Reduction in Latin America](#). World Bank, Washington, DC.



**SPOTLIGHT ON INDIGENOUS AND ETHNIC MINORITY RIGHTS**

Latin American countries have had some interesting advances in terms of protecting and promoting the rights of their indigenous and ethnic minority populations. In fact, the ELLA initiative has developed a full range of knowledge materials on this theme. The [ELLA Guide: Promoting Indigenous and Ethnic Minority Rights in Latin America](#), provides an overview to this theme and to the learning materials produced, which includes Briefs on issues such as indigenous justice systems, the right to consultation, protecting indigenous victims’ rights and intercultural rights.

The second set has to do with states’ obligations to promote and guarantee human rights. With the backing of legal and institutional frameworks, both governments and civil society are using these mechanisms to ensure the effective realisation of these rights.

The following table summarises the approaches taken in the region to protect and defend human rights on the most basic level, then going beyond the legal framework to take proactive steps to promote and guarantee an effective realisation of human rights. The rest of this Guide presents the concrete approaches listed here.

**Figure 1: Latin American Approaches to Human Rights**

Guiding principle	Strategies	Concrete approaches
Protect and defend human rights	Building legislative and institutional frameworks that acknowledge human rights	Constitutional acknowledgement of human rights
		Legal harmonisation in domestic frameworks
		Courts’ resolutions at the regional and national level
		Right to redress
Promote and guarantee human rights	Innovative mechanisms available for governments and Civil Society	National Human Rights Institutions
		Designing public policies with a human rights approach
		Monitoring of the judiciary
		Strategic litigation
		Anti-corruption agenda

Source: Own elaboration based on General Comment no. 31, [The Nature of the General Legal Obligation Imposed on States Parties to the Covenant](#), Human Rights Committee.

**BUILDING LEGISLATIVE AND INSTITUTIONAL FRAMEWORKS TO PROTECT AND DEFEND HUMAN RIGHTS**

This section focuses on four key approaches Latin American countries have implemented to protect and defend human rights. The first is constitutional acknowledgment of the rights expressed in international and regional treaties. The second is legal harmonisation with these treaties in domestic laws. Both measures create a legislative framework that supports the basic protection of human rights. The third refers to national and regional courts’ activism in defining the scope and content of human rights. Finally, countries have implemented structural and administrative changes within public institutions to facilitate their compliance with human rights obligations.

**Constitutional Acknowledgment**

The Inter-American Convention establishes that State Parties “must adopt, in accordance with their constitutional processes and the provisions of this Convention, such legislative or other measures as may be necessary to give effect to any rights or freedoms”.<sup>19</sup> To that extent, during the mid-1980s, and as a result of democratic transitions, a wave of constitutional reforms took place in many Latin American countries,<sup>20</sup> aiming to regulate states’ actions as well as the rights and duties of citizens.<sup>21</sup>

According to Rodrigo Uprimny, key constitutional changes across the region included: recognition of pluralism; equality between religions; special protection for historically excluded groups; recognition of CPR, ESCR and collective rights for indigenous people; strong commitment to equality and non-discrimination; and special mechanisms to protect human rights.<sup>22</sup> Moreover, these reforms also brought significant institutional changes to strengthen democracy and citizen participation by including instruments of direct participation, such as referendums. Monitoring and supervisory bodies were also modified through constitutions as a way to ensure their autonomy and thus their effective oversight function.<sup>23</sup>

In general terms, then, Latin American constitutional acknowledgment of human rights tended to recognise

<sup>19</sup> [American Convention, Article 2](#).  
<sup>20</sup> These included: Brazil in 1988; Colombia in 1991; Paraguay in 1992; Ecuador in 1998 and 2008; Peru in 1993; Venezuela in 1999; Bolivia in 2009. Other countries introduced major reforms to their existing constitutions, such as Argentina in 1994, Mexico in 1992 and 2011, and Costa Rica in 1989. See: Uprimny, R. 2011. [The Recent Transformations of Constitutional Law in Latin America: Trends and Challenges](#). *Texas Law Review* 89 1587-1609.  
<sup>21</sup> Ibid.  
<sup>22</sup> Ibid.  
<sup>23</sup> Ibid.



collective, economic, social, and cultural rights, special legal protection measures and a great extension of democratic participation mechanisms. Here we highlight two cases of particularly significant constitutional reforms: Colombia, enacted twenty years ago, and Mexico, the most recent experience of constitutional reform in the region.

**Colombia:** In 1991, the National Congress of Colombia enacted a new constitution to include a wider range of rights, such as civil, political and economic rights, and collective rights to indigenous peoples and afro-descendants. It also specifically recognises Colombia as a pluri-cultural state.

Perhaps most significantly, the new Colombian constitution created a legal mechanism for human rights protection made available for any Colombian whose rights are being violated, known in Spanish as *acción de tutela*. According to Allan Brewer, the *acción de tutela*, or *amparo* proceeding, is a “Latin American extraordinary judicial remedy specifically conceived for the protection of constitutional rights”.<sup>24</sup> The *amparo* proceeding is a procedure that can be filed by the injured person against threats to human rights, and is now starting to be implemented in other regions as well. In that context, the [Colombian Constitutional Court](#) has a greater role in the protection of these rights by introducing this new mechanism.<sup>25</sup>

**Mexico:** Mexico’s 2011 constitutional reform represents the region’s most recent experience in constitutional changes related to human rights. These reforms were intended to broaden the range of rights enjoyed by the people of Mexico, reinforce the right to address reparations for human rights violations, and establish which rights may be derogated in the case of the government declaring a state of emergency. It also reinforces the role of the national and local human rights institutions and guarantees their autonomy. Finally, like the Colombian case, it establishes *tutela* as the mechanism to protect the effective realisation of these rights.

## Domestic Harmonisation

The American Convention establishes in Article 1 that states have the obligation to respect human rights and ensure they are fully exercised. This means states are obligated to adopt legislative or other measures to give effect to those

rights. In that sense, the harmonisation of domestic law with international and regional treaties is the first step needed to ensure the maximum protection of the individual.<sup>26</sup>

The Mexican case represents a good example of domestic harmonisation which includes the enactment of a specific law and specific institutional reforms. Looking in particular at gender rights, the Mexican case illustrates some of the strategies Latin American countries have used to ensure domestic harmonisation with international and regional human rights treaties.

The [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#) is an international instrument which plays an important role in setting the standard and mechanisms that ensure human rights and equality for women around the world. This treaty has been used to guarantee women’s access to human rights as well as to prevent and reduce violence.

Though the treaty has been ratified by Mexico since 1981, it was not until 2001 that the Mexican Congress approved the creation of the [National Institute for Women \(INMUJERES\)](#), a federal-level government agency that works to create a culture of equality free from violence and discrimination for all Mexican women and to allow them to fully exercise their rights. Every one of the 32 local provinces across the country have now also created a local office or institute for women’s protection.

In 2006, the Mexican Congress approved the [General Act on Equality between Women and Men](#), a federal law that seeks to ensure substantive equality between women and men, by establishing institutional mechanisms, such as the creation of a National Women’s Institute. It also mandates that each local State enact its own local laws and regulations so that the standards could be legally binding in its territory. By 2012, 27 local provinces had also adopted a law on equality between women and men, making it enforceable across the country.

## Court Resolutions at the Regional Level

When a state, including any branch of the government, does not fulfil its human rights obligations, it may be deemed responsible for human rights violations.<sup>27</sup> In these cases, regional and national courts have played

<sup>24</sup> Brewer-Carías, A. 2009. [The Latin American Amparo Proceeding and the Writ of Amparo in the Philippines](#). *City University of Hong Kong Law Review* 73-90.

<sup>25</sup> Arango, R. 2011. La Justiciabilidad de los Derechos Sociales Fundamentales en Colombia: Aporte en la Construcción de un *ius Constitutionnale Commune* en Latinoamérica (The Justiciability of Social Rights in Colombia: Contribution to the Construction of a *ius Commune* Constitution in Latin America). In: Von Bogdandy, A. (eds). [Construcción y papel de los derechos sociales fundamentales. Hacia un ius Constitutionnale Commune en América Latina](#). UNAM, Mexico City.

<sup>26</sup> García-Sayán, D. 2011. [The Inter-American Court and Constitutionalism in Latin America](#). *Texas Law Review* 89 1835-1862. 101-123.

<sup>27</sup> Rodríguez Manso, G. et al. 2007. *Responsabilidad y Reparación: Un enfoque de derechos humanos (Responsibility and Redress: A Human Rights Approach)*. Fundar, México City.



an important role in defining the scope and content of the state's human rights obligations by solving emblematic cases in the light of human rights standards.

In particular, a central element of the American Convention is the requirement to harmonise domestic law with the provisions of the treaty. To oversee compliance with this requirement, the Inter-American Court seeks to articulate legal interpretations of human rights norms and determines whether rights have been violated, and it orders remedies for violations that it has found.<sup>28</sup> The most important contribution to harmonisation has been the articulation of regionally-specific conceptions of shared human rights among Latin American countries, as well as interpreting local human rights norms taking into account the regional context. It has developed a doctrine against impunity, supported due process rights of victims and disapproval of amnesties for human rights violations.<sup>29</sup>

However, the Inter-American Court continues to face challenges in achieving meaningful and lasting implementation of its reparations orders, mainly because of local resistance to undertake legislative reforms that may enforce human rights.<sup>30</sup> But recent literature has shown that Inter-American Court decisions have been successfully implemented when public opinion has been strong and visible, typically due to the gravity of the violations and pre-existing advocacy efforts by CSOs. The visibility of the cases has helped to ensure that governments are receptive to the Court's decisions.<sup>31</sup>

To highlight just two of the many significant cases on which the Inter-American court has ruled,<sup>32</sup> here we focus on cases from Chile and Mexico, cases that demonstrate the importance of modifying domestic frameworks to adopt standards to protect and respect human rights.

### ***"La última tentación de Cristo" (Olmedo Bustos) vs. Chile*<sup>33</sup>**

This case warrants highlighting because it is the first judgment to deal with freedom of expression by showing a country's lack of a domestic framework adequately protecting this

right. Instead, the Chilean Constitution actually establishes prior censorship in showing films, instead of protecting it.

The Inter-American Court examined the prohibition - imposed by the Chilean judicial authorities - on the exhibition of the film 'The Last Temptation of Christ' at the request of a group of citizens seeking the protection of the Catholic Church and of their own rights. The Inter-American Court argued in favour of the right to freedom of expression in its double dimension as an individual and collective right, and concluded that the Chilean authorities' norm of prior censorship was incompatible with Article 13 of the American Convention.

It therefore ordered Chile to comply with its international obligations and adjust its domestic law to protect the right to freedom of expression and eliminate prior censorship. The ruling also ordered the government to modify article 19 of the Chilean Constitution and Legal Decree 679 in order to eliminate the prior censorship concept.

### ***Rosendo Radilla Case vs. Mexico*<sup>34</sup>**

This case represents the first time that a regional Court's decision establishes the Mexican government's responsibility for violating rights during authoritarian regimes. It also represents a strong exhortation to the Mexican government to put into practice all the regional and international treaties ratified by Mexico by modifying domestic frameworks to meet regional standards.

In 1974, Rosendo Radilla was alleged to have disappeared at the hands of members of the Mexican army. After many failed legal attempts to solve the case in national courts, a group of CSOs finally brought the case to the Inter-American System to decide whether the Mexican State was responsible for violating the American Convention and, therefore, Radilla's human rights.

In 2009, the Inter-American Court unanimously decided that Mexico was responsible for the violation of several rights established in the American Convention, such as the right to personal liberty (Art. 7), to life (Art. 4) and to humane treatment (Art. 5). Furthermore, the Court ordered the Mexican State to

<sup>28</sup> Neuman, G. 2008. [Import, Export and Regional Consent in the Inter-American Court of Human Rights](#). *European Journal of International Law* 19(1) 101-123.

<sup>29</sup> Ibid.

<sup>30</sup> 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.

<sup>31</sup> Ibid.

<sup>32</sup> To learn more about an additional case related to indigenous rights, women's rights and the right to redress, read the [ELLA Brief: Victims' Rights in Multicultural Contexts: The Case of Inés Fernandez at the Inter-American Court of Human Rights](#). To learn more about other issues related to indigenous and ethnic minority rights in Latin America, read the [ELLA Guide](#), which lists the full range of knowledge materials available on this theme.

<sup>33</sup> Inter-American Court of Human Rights. [Case of "The Last Temptation of Christ" \(La Última Tentación de Cristo\), Olmedo Bustos y otros vs. Chile](#). 5 February 2001.

<sup>34</sup> Inter-American Court of Human Rights. [Case of Radilla Pacheco vs. Mexico](#). 23 November 2009.



adopt, within a reasonable period of time, the appropriate legislative reforms that would limit the military jurisdiction that was seen as giving rise to the human rights violation.<sup>35</sup>

### National Courts' Activism

National courts have a crucial role in the implementation of the binding decisions of an international tribunal organ such as the Inter-American Court. In this process, the role of judges and lawyers is fundamental to ensure that national courts will implement the international norms and standards at the domestic level.<sup>36</sup>

In some cases, national courts have undertaken to oversee domestic harmonisation in the light of international standards of human rights, and also to ensure implementation of the legal rulings of the Inter-American Court. In the case previously discussed, *"La última tentación de Cristo"* (Olmedo Bustos) vs. Chile,<sup>37</sup> the Chilean National Court ordered "the State to take all necessary measures to give effect to the judgement delivered by the Inter-American Court to protect the right to freedom of thought and expression and eliminate prior censorship".<sup>38</sup> As a result, the Chilean Congress adopted a constitutional reform designed to establish the right to freedom of artistic creation and the elimination of cinematographic censorship, replacing it with a classification system regulated by law.<sup>39</sup>

Returning also to the case of Rosendo Radilla vs. Mexico, the Mexican Supreme Court – inspired by the Inter-American Court's resolution – decided to discuss the role of the Judiciary in the enforcement of human rights, through a new inquiry known as '*Expediente Varios 912/2010*'. One of the most significant contributions of this resolution is the new activism of the Supreme Court as an entity responsible for overseeing the harmonisation and interpretation of Mexico's domestic framework in the light of international standards and regional court findings related to human rights. In that context, the Supreme Court resolved that the Military Code has to be modified in order to limit its jurisdiction, as expressed in the Mexican Constitution and international and regional treaties.

Two other interesting cases from the region are worth highlighting, to show some of the other ways national courts have pro-actively assured and extending the legal foundation guaranteeing human rights.

### SPOTLIGHT ON ENVIRONMENTAL AND TERRITORIAL RIGHTS

Latin American countries' success in establishing legal frameworks cuts across a number of distinct rights. One particularly relevant set of rights for the region is environmental and territorial rights.

Principle 10 of the Rio Declaration states that all countries that have subscribed to this document should guarantee their citizens access to effective mechanisms of informed participation in the decisions and activities that could have a significant negative impact on their livelihoods. Despite important advances across the region in the recognition of these rights and their incorporation into the laws of most Latin American countries, an increase in the recurrence and intensity of socio-environmental conflicts appears to be indicative of continuing challenges in the effective implementation of this right.

### Argentina: Advancing the Right to Health Care for Patients Living with HIV:<sup>40</sup>

National courts helped to strengthen the right to health by defining the scope and content of the Argentinean government's obligation to protect and defend ESCR in domestic frameworks. In 2001, Argentina was facing an economic crisis that was affecting the availability of funding for social programmes. In one such programme providing health care for patients living with HIV, the state decided to stop providing antiretroviral drugs to HIV+ patients enrolled in the programme. As a response, the [Centre for Legal and Social Studies](#) (CELS) supported the victims to file a formal complaint in the national court. Three years later, Argentina's Supreme Court of Justice ruled that the State must ensure citizens' right to health even in the context of an economic crisis, and must therefore continue to implement the existing [national law governing AIDS treatment](#).

**Colombia's Constitutional Court:**<sup>41</sup> Human rights experts tend to agree that the Colombian Constitutional Court has been particularly successful in its efforts to address the unconstitutionality of domestic laws related to crimes committed during dictatorships. In one emblematic example, the petitioner, Marcela Patricia Jiménez, a Colombian citizen,

<sup>35</sup> This ruling was preceded by three more cases related to the same issue: [Case of Fernández-Ortega et al. vs. Mexico](#), 30 August 2010; [Case of Rosendo Cantú et al. vs. Mexico](#), 31 August 2010; [Case of Cabrera-García and Montiel Flores vs. Mexico](#), 26 November 2010.

<sup>36</sup> García-Sayán 2011, above n 26.

<sup>37</sup> Inter-American Court, 2003. ["The Last Temptation of Christ" Case \(Olmedo Bustos et al.\) Compliance with Judgment](#), 28 November 2003.

<sup>38</sup> Ibid.

<sup>39</sup> Ibid.

<sup>40</sup> Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies – CELS). 2008. [Litigio Estratégico y Derechos Humanos: La Lucha por el Derecho \(Strategic Litigation and Human Rights: The Fight for the Law\)](#). CELS, Siglo XXI, Buenos Aires.

<sup>41</sup> García-Sayán 2011, above n 26, 36.



asked the Colombian Constitutional Court to consider forced disappearance as a crime (Art. 165) of the Penal Code.<sup>42</sup> Based on the Inter-American Court's rulings, part of the definition of forced disappearance as a crime contained in Colombia's domestic law, Article 165 of Law 599 of 2000, was declared unconstitutional by the Colombian Court. The law said that a perpetrator can only be persecuted if he or she belongs to an illegal armed group, thereby excluding members of the armed forces from prosecution. The Court ruled that the law's text was unconstitutional because it significantly reduced the meaning and scope of the protections of the victims, arguing that it is the state's obligation to prevent and punish those responsible for such acts.

### The Right to Redress

During dictatorships and after transition to democracy, episodes of social conflict have led to human rights violations in many Latin American countries. From this repression, groups of victims have emerged as crucial actors in transitional justice processes by calling on governments to guarantee their rights and reparation measures. These entail a range of structural and institutional reforms, as well as appropriate compensation, sanctions for violators of human rights and transparent efforts to reconstruct the truth.

Latin American experiences provide a broad range of lessons for other regions, in particular for groups interested in developing proposals for adequate reparation of human rights abuses, actors wanting to find out more about mechanisms for appeal, as well as transitional justice processes more generally. Countries such as Argentina, Chile, Colombia, Guatemala and Peru have established integral redress programmes. These acts imply that in spite of the existence or not of transformative judicial processes, the executive or legislative branches in these countries have created programmes that incorporate integral redress actions for victims and for society as a whole.

In every case, the organisation of the victims demanding their rights to justice, truth and to a range of reparation measures ('integral redress') for the abuses they had suffered is key to challenge governments to change the contexts that enable human rights violations. Some examples of organised groups demanding justice are the Mothers of the Plaza de Mayo in Argentina who demand the right to be reunited with their abducted children, and relatives of victims of femicide in

Mexico demanding effective justice to solve these cases, pressure which has resulted in the creation and strengthening of the Public Prosecutor Office Specialised in Femicide.

To learn more about how an integral approach to redress can happen in practice and the role played by victims demanding the safeguarding of their rights read the [ELLA Brief: Integral Redress: The Case Of Oaxaca, Mexico](#).

### Establishing Autonomous Human Rights Institutions

[National Human Rights Institutions](#) (NHRIs) in Latin America – also known as Public Defenders, Ombudsman Offices, Human Rights Commissions or Human Rights Attorneys – are becoming increasingly recognised for the strong and proactive role they are playing in promoting human rights. The creation of NHRIs responded to the particular context of Latin America, a region emerging from the repression and armed conflict of the 1970s and 1980s, so that NHRIs took on a particular shape, responding to the need for implementing mechanisms that control human rights abuses perpetrated by government authorities.

NHRIs in the region share some key characteristics in terms of institutional design such as well-defined responsibilities and competencies, constitutional autonomy, prestigious profile of the institution's director, and political, budgetary and managerial independence, all of which support their ability to successfully guarantee human rights. They have taken on many roles, such as bringing civil society demands before public authorities, mediating social conflicts of public interest and providing an array of inclusive mechanisms for social involvement.

Latin America's NHRIs have also become key players in promoting an innovative human rights strategy: integrating a human rights approach within public institutions' agendas and in public policies, programmes and laws within their jurisdiction. One example is the case of the [Federal District Human Rights Commission](#) that helped push forward a novel effort requiring a human rights approach be used to establish public policy in Mexico City, as stated in the [Human Rights Programme of the Federal District](#) (2009).

NHRIs have also played a role in providing government oversight, especially in terms of the legal framework. A good example comes from the Peruvian Ombudsman. In 2001, it filed a complaint with the Inter-American Commission

<sup>42</sup> Constitutional Court of Colombia. 2002. [Sentencia C-317/02](#).



against the Peruvian government, arguing that the National Electoral Jury had [restrictively interpreted](#) the electoral law by allowing gender discrimination when it established a quota which was below the level required by the national law.

Another of their roles is mediating social conflict and fostering more active citizenship. The Bolivian Ombudsman, for instance, has played a key role as intermediary between the government and citizens. To cite one example, the agency generated dialogue about the coca leaf and comprehensive development in the tropical region of Cochabamba, an area facing a serious dispute over water and suffering negative consequences from coca harvest eradication. The Ombudsman's involvement helped secure an agreement with indigenous leaders from the area in conflict.

To learn more about the unique role that NHRIs are playing in Latin America, as well as access examples of some of the innovative practices and design features of these institutions, read the [ELLA Brief: Latin America's National Human Rights Institutions: Fostering Democratic Transitions and Guaranteeing Human Rights](#). For additional resources, see the [ELLA Spotlight on Publications: National Human Rights Institutions in Latin America](#) and the [ELLA Spotlight on Key Organisations Supporting and Strengthening National Human Rights Institutions in Latin America](#).

### Human Rights as the Foundation for Public Policy Design

Even if states have adopted legislative and institutional frameworks that guarantee human rights, they are essentially useless without specific public policy measures to guarantee human rights are realised, meaning that states undertake administrative, financial and even methodological changes to truly promote and guarantee the effective realisation of human rights. In Latin America this has inspired a new form of public policy formulation in two key ways: adopting a rights based approach in designing public policies; and budgeting with a human rights approach. These innovative initiatives represent emerging good practice in making human rights operational.

**Rights Based Approach to Public Policy:** States' human rights obligations require implementing positive domestic measures to promote and guarantee human rights. In Latin America, countries are beginning to experiment with innovative strategies to transform the focus and purpose of public policies by adopting a Rights Based Approach (RBA). This implies incorporating the set of principles, standards

and guidelines emanating from existing international or regional human rights treaties and conventions into public policies.<sup>43</sup> There are two cases in Latin America – the governments of Mexico City and of Argentina – in which governments have begun implementing a RBA to public policies as a tool to guarantee human rights.

The Mexico City experience began in 2002 when a group of CSOs developed a conceptual framework to integrate human rights, public policies and budgets. Mexico City's RBA process is still fairly new, as public agencies have only been incorporating the programme's courses of action for the last three years. One of the initiative's main achievements came in 2011, when for the first time ever, the city's budget included a monitoring tool to track resources allocated to the new RBA public policies. That year's budget contained 844 programme courses of action that corresponded to 413 institutional activities. The budget covered 47 billion Mexican pesos (around US\$ 4.5 billion) and 18 public agencies.

The case of Argentina is an incipient but promising example. It was only in 2011 that the [National Human Rights Secretary \(HRS\) of Argentina](#), alongside the [United Nations Development Programme \(UNDP\) - Argentina](#), began developing the Advancing Human Rights project. Within its first year, the project has a very specific aim: generating a common assessment system to measure progress in achieving social rights. The assessment system is conceived as a mechanism to analyse the status of three specific rights - work, education and social security - at the national and provincial levels. It is hoped the system will help in establishing explicit goals to enable the state to fulfil its human rights obligations and lead to institutionalisation of goals and objectives that will require the government to show results on the three rights.

To learn more about the RBA in public policy design and the experiences of Mexico and Argentina, read the [ELLA Brief: Making Human Rights Real: Two Latin American Experiences in the Rights Based Approach to Policymaking](#).

**Human Rights and Gender Approach to Budgeting:** Making human rights operational and accessible for citizens represents a great challenge to governments because they must devote financial resources and adopt an approach to effectively link public spending with human rights realisation. Increasingly, the budget is being seen as an effective tool to promote human rights, though most governments around the world still designate their budgets without

<sup>43</sup> Such as the [Universal Declaration of Human Rights](#), [International Covenant on Economic, Social and Cultural Rights](#), [International Covenant on Civil and Political Rights](#), and the [Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#).



specifically linking them to human rights improvements.

Latin America became the first region to experiment with building budgets with a human rights approach, thanks to an initiative of the Mexico City government. As suggested by the city's [Human Rights Diagnosis](#) undertaken in 2007, concrete actions were identified that needed to be implemented to improve rights in Mexico City. To reach this goal, it was recommended to begin including a human rights approach into the budgeting process.

The lack of expertise and evidence in adopting this approach and the cultural obstacles among public officials represented a great challenge among decision makers. But the active participation of CSOs and the establishment of working groups that could share budget tools and criteria have helped to turn this innovative experience into a good practice throughout the region.

To learn more about the process, initial outcomes and lessons learned, read the [ELLA Brief: Mexico City's Innovation: Budgeting with A Human Rights Approach](#). To access publications written about a human rights approach to budgeting, read the [ELLA Spotlight on Publications: Budgets and Human Rights](#).

Some Latin American countries are also experimenting with incorporating gender rights in their budgets. To learn more about these experiences and their impact in ensuring that both women and men effectively exercise their human rights, see the [ELLA Brief: Advancing Gender Equality through the Budget: Latin American Experiences with Gender Responsive Budgeting](#) and the [ELLA Spotlight on Gender Responsive Budgeting](#).

### Judicial Monitoring: Latin America's Observatories

During the region's transitions to democracy, CSOs increasingly began to use the new mechanisms available to them thanks to the increasing harmonisation of human rights obligations in their countries' constitutions and domestic laws. CSOs in Latin America became "increasingly interested in the operation of the courts, given to their relation to political processes and the need to build judiciaries capable of enforcing the new rules in renewed democracies".<sup>44</sup> Thus, CSOs became prominent actors pushing to monitor, assess and scrutinize the performance of the judicial branch, while also aiming to improve its transparency, effectiveness and accessibility.<sup>45</sup>

An interesting mechanism emerged in the region, called observatories (*observatorios* in Spanish), designed and used by civil society to exercise oversight of the region's judiciaries. Most observatories are created by universities and research centres, or by a coalition of a number of these groups aiming to oversee all the activities of the judiciary.<sup>46</sup>

According to Fundar experts, these observatories have become prominent in countries such as Bolivia, Colombia, Ecuador, Mexico and Peru, in part due to the significant presence of intercultural groups like indigenous and afro-descendant peoples. By using the right to information and transparency as two mechanisms to monitor the decisions of the judicial branch, the observatories can help guarantee the rights of specific groups like indigenous people, women and human rights defenders. Observatories also seek to assess the degree to which the judiciary promotes and guarantees human rights in each decision.

Below we describe three examples of Latin America's observatories:

**[Observatorio de Acceso a la Justicia en los Andes](#) (Access to Justice Observatory in the Andes):** This initiative of the [Red Andina de Justicia de Paz y Comunitaria](#) (Andean Network of Community Justice and Peace) seeks to monitor performance, progress and setbacks in access to justice across the Andean region, including Bolivia, Ecuador and Peru. By monitoring the judiciary, this observatory conducts follow-up on judicial decisions in emblematic cases that involve human rights violations among vulnerable groups, such as indigenous people, children or women.

**[De Justicia, Colombia](#):** A vibrant group of academics and researchers created a centre for the study of law, justice and society known as [De Justicia](#), which promotes social inclusion, democracy and human rights in Colombia and Latin America. Their agenda includes an overview of policy alternatives in the management of the judiciary and the monitoring of judiciary resolutions that affect the scope and enjoyment of human rights.

**[Monitor Judicial, Mexico \(Judiciary Monitor\)](#):** Based in Oaxaca, a southern province in Mexico, implemented by [Fundar](#) (the authors of this Guide) and sponsored by the European Union, this observatory's objective is to enforce the rights of indigenous peoples and communities. In particular they do so by exercising their right to access information, then they use that information to monitor the Judiciary. They also use

<sup>44</sup> 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.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.



strategic litigation (see below) to bring cases before national courts as a way to strengthen individual and collective rights.

Other observatories have emerged in the region to monitor performance in terms of specific rights. One extensive practice in Latin America is the creation of gender observatories as a tool to measure progress in the advancement of women and the persistence of gaps between men and women in different outcomes. The [ELLA Brief: Observatory of Maternal Mortality in Mexico: A Civil Society-Led Initiative](#) tells the story of one Mexican gender observatory.

### Strategic Litigation in Human Rights

In Latin America over the last two decades, participation in strategic litigation has become increasingly prominent as a tactic to shape the realisation of human rights, in particular focusing on social rights.<sup>47</sup> Strategic litigation deals with “issues that transcend individual circumstances to enter the judicial environment and attempts to determine human rights violations, foster legal reforms, and construct coalitions that create pressure for social changes”.<sup>48</sup> CSOs have been some of the most important promoters in achieving social justice by submitting cases of human rights violations before courts.<sup>49</sup> Moreover, the activism of the judiciary is triggered as it may decide whether the state has violated a specific right.<sup>50</sup>

The region is home to a number of organisations who are successfully using strategic litigation to promote human rights in their countries. To name only two, good experiences in developing strategic litigation may be represented by the outstanding work developed by the [Centre for Legal and Social Studies](#) (CELS) in Colombia as well as the [Civil Association for Equality and Justice](#) (ACIJ) in Argentina. Both organisations are successfully using strategic litigation as a tool to promote human rights. They have managed to make social cases public by pointing out deficiencies in domestic frameworks to fulfil human rights. These cases demonstrate the usefulness and effectiveness of this tool when used to advance human rights and to influence public policies.

To learn more about strategic litigation as a tool for advancing human rights in Latin America, see the [ELLA](#)

[Brief: Judicial Reviews: An Innovative Mechanism to Enforce Human Rights in Latin America](#), and the [ELLA Spotlight on Publications: Judicial Review for Enforcing Human Rights in Latin America](#). For an example from Argentina, see the [ELLA Video: Using Strategic Litigation to Enforce the Right to Information in Latin America: a Case from Argentina](#).

### Human Rights and the Anti-Corruption Agenda

From a social approach, there is strong evidence that corruption is no longer an administrative problem related to public affairs, but a problem that affects citizens’ enjoyment of human rights. From a human rights approach, corruption has been defined as “an abuse of entrusted power that benefits the elite at the expense of those who are less able to defend their rights in a context where States do not accomplish their obligations in terms of promote and guarantee human rights”.<sup>51</sup>

Recently, some Latin American experts have pushed forward a joint agenda for anti-corruption policies and human rights based on three common principles: participation, transparency and access to information, and accountability. Based on these principles, CSOs have been developing a variety of strategies to strengthen oversight mechanisms, like using the right to information to monitor the spending of public funds designated to specific groups. By developing oversight and monitoring initiatives, CSOs can prevent corruption and may guarantee a better use and destination of public funds devoted to specific programmes and specific groups.

For example, [Transparency International](#) (TI) has supported some major projects in Latin America that effectively link human rights and corruption. For example, the Integrity Risks in Conditional Cash Transfer Programme aims to identify potential acts of corruption in these types of social benefit programmes; Anticorruption Legal Services Offices were created in Argentina, the Dominican Republic, Nicaragua and Panama to protect victims from corruption and strengthen their access to justice; and finally, the Anti-Corruption Conventions in the Americas promotes the creation of a regional framework, and the [Regional Alliance for the Freedom of Expression and Information](#)<sup>52</sup> to enforce the right to information in Latin America.<sup>53</sup>

<sup>47</sup> Rodríguez-Garavito, C. 2011. *Beyond the Courtroom: The Impact of Judicial Activism on Socioeconomic Rights in Latin America*. *Texas Law Review* 89 1669-1698.

<sup>48</sup> 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.

<sup>49</sup> Milena, A., Londoño-Toro, B., Marcela, L. 2010. *El Concepto de Litigio Estratégico en América Latina: 1990-2010 (The Concept of Strategic Litigation in Latin America: 1990-2010)*. *Universitas* 149 49-76.

<sup>50</sup> Association for Civil Rights (ADC) 2008, above n 48.

<sup>51</sup> International Council on Human Rights Policy (ICHRP). 2010. *Integrating Human Rights in the Anti-Corruption Agenda: Challenges, Possibilities and Opportunities*. ICHRP Geneva.

<sup>52</sup> To learn more about the Alliance’s work promoting transparency and access to information in the Latin America region, read the [ELLA Brief: Civil Society’s Regional Network for Advancing Freedom of Expression and Access to Information](#).

<sup>53</sup> González Le Saux, M., Nash Rojas, C. (eds). 2011. *Transparencia, Lucha Contra la Corrupción y el Sistema Interamericano de Derechos Humanos (Transparency, the Fight Against Corruption and the Inter-American Human Rights System)*. Centro de Derechos Humanos, Santiago de Chile.

## CONTEXTUAL FACTORS

## ENABLING SUCCESSFUL LATIN AMERICAN APPROACHES



The American Convention on Human Rights represented the region's first attempt at addressing human rights, establishing specific obligations for states and creating two mechanisms that may intervene in matters related to states fulfilling their human rights obligations: the Inter-American Commission and the Inter-American Court.

These two regional organisations have pushed Latin American states to guarantee human rights by elaborating well-documented reports that denounce gross violations. They have also taken up individual legal cases and have provided precautionary measures to human rights defenders, advancing enforcement of human rights in the region.

The political transition in Latin America has brought renewed governments committed to the enforcement of human rights. The legislative branch emerged for the first time as a separate entity balancing any attempt at authoritarianism from the central government. Legislators began to show the political will to include civil, political, economic and social rights in domestic frameworks as a way to reinforce democracy in the region.

Regional and national courts' activism has been crucial in

enforcing states' human rights obligations. In many cases, court decisions on emblematic cases have helped to open the discussion about immediate actions that guarantee the effective exercise of human rights and its implementation. In some cases, national courts became proactive and independent actors who played a key role in promoting human rights in their countries.

The active participation of CSOs in countries like Argentina, Chile, Colombia, Peru and Mexico was also key in advancing human rights. These organisations worked closely with victims and with vulnerable groups to bring paradigmatic cases of gross human rights violations before regional and national courts as a way to ensure human rights enforcement. They also created and used innovative oversight mechanisms to monitor states' performance.

In particular, the emergence of social movements of specific populations like indigenous groups, afro-descendant people and women has helped to make visible the situation of historical exclusion under which they have lived, and their specific demands in terms of a more effective access to individual and collective rights.

### LESSONS LEARNED

**1** Building legislative and institutional frameworks inspired by adopting norms of human rights represents the first step in establishing a solid foundation to protect and defend human rights at the domestic level.

**2** Latin America demonstrates the potential of establishing regional-level human rights systems, in particular the power of regional human rights treaties and a regional human rights court. The latter has been particularly effective in pushing countries to harmonise their domestic legal

frameworks with the international and regional treaties, which has proven to be a successful strategy.

**3** By ruling on emblematic cases, regional and national courts in Latin America have established advanced criteria in defining the scope and content of human rights as well as the specific state obligations to ensure their effective realisation.

**4** NHRIs' design features are key in strengthening their role in effectively promoting human rights throughout society.

**5** CSOs' proposal for adopting a common agenda between corruption and human rights to enable social participation and oversight can be an effective approach to fight against corruption and promote social justice.

**6** The Latin American experience shows that it is possible to undertake administrative, financial and even methodological changes to make the effective realisation of human rights operational.



## CONCLUSION

After two decades, Latin American countries have gone through a process of political transition to democracy, where human rights inspired the development of a renewed relationship between governments and citizens. As expressed in international and regional human rights treaties, democratic states must commit to take all steps necessary, using the maximum of their capabilities and from every branch of the government, in order to protect, defend, promote and guarantee human rights for all, and especially for vulnerable groups. The Latin American experience shows that the fulfilment of these obligations requires, in the first place, a supporting legal framework, such as through modifying domestic legal codes and public institutions. The participation of national courts and regional courts has been key in this regard in Latin America. Drawing on their strong legal framework, many Latin American countries have begun to go even further to promote and guarantee human rights through innovative mechanisms, like generating public policies and budgets with a human rights approach. The Latin American experience also highlights what is seen in other regions: the key role civil society organisations play in making effective use of the states' laws and mechanisms, as well as generating their own innovative ways to defend and enforce human rights.

## KNOWLEDGE PARTNERS

The following list highlights some of the key organisations working on issues related to human rights in Latin America. To access additional organisations, read the [ELLA Spotlight on Key Human Rights Organisations](#). If you are interested specifically in NHRIs, read the [ELLA Spotlight on Key Organisations: Supporting and Strengthening National Human Rights Institutions in Latin America](#).

### *Regional and International Organisations*

The [Inter-American Commission on Human Rights](#) and the [Inter-American Court of Human Rights](#) are the two agencies of the [Organisation of American States](#) that promote and protect human rights in the region. Based on the cases brought before them, including some emblematic sentences setting important human rights standards, they produce resolutions and rulings that are binding for countries under their jurisdiction.

The [Inter-American Institute of Human Rights](#) was created as part of the Inter-American System to reinforce human rights education and promote high-quality human rights research in Latin America. An academically-focused organisation, it also collaborates with local organisations and public institutions from the region to disseminate human rights knowledge.

Formed by 23 CSOs, the [Regional Alliance for the Freedom of Expression and Information](#), is the most important network focused on the right to information and freedom of expression in Latin America. It provides useful regional [publications](#) (in

Spanish) on human rights, transparency, access to information and freedom of expression.

The [Special Rapporteurship of the Rights of Migrants Workers and their Families](#) was created in 1997 by the Inter-American Commission. One of its seven Commissioners is appointed as Special Rapporteur with a four-year mandate to monitor all measures taken by states to protect and guarantee the rights of migrants and their families.

The [Centre for Justice and International Law \(CEJIL\)](#) is a regional-level civil society organisation that focuses on ensuring the effective use of the Inter-American System to guarantee the exercise of human rights. In addition to bringing litigation before the Inter-American System, they also provide education and training for human rights defenders, conduct and publicise human rights research, and carry out advocacy to strengthen the Inter-American System.

### *National CSOs*

Here are just a few of the many national-level CSOs working to promote and defend human rights in the region.

[Andean Network of Community Justice and Peace \(Red Andina de Justicia de Paz y Comunitaria\)](#) (in Spanish) is a network of CSOs that aims to monitor the performance, progress and setbacks in access to justice at the Andean region – focusing on Bolivia, Ecuador and Peru – in particular through judicial monitoring.



The [Centre for Legal and Social Studies \(Centro de Estudios Legales y Sociales - CELS\)](#) is an Argentinean CSO working to promote and defend human rights through strategic litigation as an advocacy tool in national and regional courts. It has achieved important successes, such as pushing the Argentinian state to recognise excluded groups' rights.

[CONECTAS](#) is a Brazilian organisation working to promote human rights not only in Latin America, but also in Africa and Asia. Its work focuses on strengthening CSOs' capacities to defend human rights by using the UN and regional mechanisms to achieve justice for victims of human rights violations. It also publishes [Sur Journal](#), a peer-reviewed journal in English, Spanish and Portuguese, that aims to explore human rights issues through the perspective of the global south.

[De Justicia](#) is a Colombian centre for the study of law, justice and society created by a vibrant group of academics and researchers. One of its main activities is monitoring of the judiciary through advocacy and by conducting research (in Spanish) examining the main obstacles to accessing justice.

[Mexican Institute for Human Rights and Democracy \(Instituto Mexicano de Derechos Humanos y Democracia – IMDHD\)](#) is a Mexican CSO that promotes human rights and democracy. This organisation conducts [national research](#) (in Spanish) analysing the development of human rights in three main issues: equality and non-discrimination, citizen security, and democracy and citizen participation.

[Tlachinollan](#) is a CSO from the state of Guerrero, in southern Mexico, that works to promote and defend indigenous human rights by working closely with indigenous communities, providing education on human rights and supporting victims whose rights have been violated. They have also developed an innovative project called the Observatory of the Armed Forces and the Police (MOCIPOL in Spanish), that documents abuses by security forces and monitors the functioning of the police in the region.

## RECOMMENDED READING

This list highlights some of the key publications related to human rights in Latin America. For more information about these and other publications, see the [ELLA Spotlight on Publications: Human Rights in Latin America](#) and the [ELLA Spotlight on Publications: National Human Rights Institutions in Latin America](#).

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

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## LEARN MORE FROM THE ELLA BRIEFS

[Latin America's National Human Rights Institutions: Fostering Democratic Transitions and Guaranteeing Human Rights](#)

National Human Rights Institutions have played a key role in Latin America's recent history and democratic transition. They have taken a distinct form in the region compared to the rest of the world, one which reflects the specific context and historical moment in which they were established.



## [Making Human Rights Real: Two Latin American Experiences in the Rights Based Approach to Policymaking](#)

Argentina and the Government of Mexico City are implementing innovative administrative and public policy changes to make human rights a reality. Advances in both countries are uneven, though both experiences have important outcomes to share.

## [Mexico City's Innovation: Budgeting with A Human Rights Approach](#)

In 2009, the Mexico City government implemented an innovative budgeting approach – the first of its kind – to specifically link the budget with human rights. As a result, 75% of the Mexico City budget is now tied to implementing specific actions to promote human rights.

## [Integral Redress: The Case of Oaxaca, Mexico](#)

In this groundbreaking case, victims of human rights violations formed a united front to demand integral redress from a government responsible for past abuses and crimes, highlighting how an integral approach to redress can happen in practice.

## [Judicial Reviews: An Innovative Mechanism to Enforce Human Rights in Latin America](#)

In Latin America, the judiciary is playing a unique role, taking the lead and innovating by mandating specific budget allocations and public policies to realise human rights.

### CONTACT [FUNDAR](#)

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### FIND OUT MORE FROM [ELLA](#)

To learn more about Latin America's experiences in advancing human rights, read the rest of the [ELLA knowledge materials](#) on this theme. To focus on indigenous and ethnic minority rights, read the [ELLA Guide: Promoting Indigenous and Ethnic Minority Rights in Latin America](#). To learn more about other development issues, browse other [ELLA Themes](#).