Can Courts bring more justice to health? ... or is right-to-health litigation a damaging pandemic?

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Litigating Health Rights: Can Courts Bring More Justice to Health?

Alicia Ely Yamin & Siri Gloppen (eds)

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Human Rights Programme Series
"The litigation pandemic" in (parts of) Latin America

- **Costa Rica**: Claims for Medications filed in Constitutional Court against CCSS, 1989-2008

![Graph showing number of Health Tutelas among all Tutelas from 1999 to 2008](image)

- **Colombia**:

  ![Graph showing cost of drugs reimbursed by state (mll of pesos) from 2000 to 2008](image)

  - **Brazil**: Costs of Lawsuits against the Federal Government 2005-09

  ![Graph showing costs of lawsuits from 2005 to 2009](image)

  - Flexibilisation of regulation of drugs prices

Source: Ombudsman

Source: Observamed
<table>
<thead>
<tr>
<th>Country</th>
<th>Lawsuits annual figures (*)</th>
<th>Cumulative figures (**)</th>
<th>Population (millions)</th>
<th>Health litigation per capita (lawsuits per 1,000,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Colombia</td>
<td>150,000*</td>
<td></td>
<td>45.6</td>
<td>3,289</td>
</tr>
<tr>
<td>Costa Rica</td>
<td>500*</td>
<td></td>
<td>4.6</td>
<td>109</td>
</tr>
<tr>
<td>Brazil</td>
<td>10,000–15,000*</td>
<td></td>
<td>193.7</td>
<td>52–77</td>
</tr>
<tr>
<td>Argentina</td>
<td>1,159*</td>
<td></td>
<td>40.2</td>
<td>29</td>
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<tr>
<td>South Africa</td>
<td>17**</td>
<td></td>
<td>49.3</td>
<td>0.3</td>
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<tr>
<td>India</td>
<td>218**</td>
<td></td>
<td>1,150</td>
<td>0.2</td>
</tr>
</tbody>
</table>
Impact of litigation – is it good or bad?

- Public interest litigation

Versus

- Individual litigation for personal gain

- Social gradient
- Priority setting perspective
  - Effectiveness
  - Cost
  - severity of disease
  - equality of evidence
Are international actors back-seat driving?

- NGOs (&Donors) in public interest cases
- Pharmaceutical companies?
Thank you!

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