

The selective approach is the key to offer quality information and research material for preparing guidelines, public policies, and legislations, in the face of future crises

Rule of law and emergencies. The example of COVID 19: how a world wide case law database can help with the next global emergencies

COVID-19 Litigation Project's results presented and discussed at Externado University in Bogotá

On October 10-11, 2022 the “International Seminar Judicial Protection in Latin America: Actions to guarantee fundamental rights during the Covid-19 pandemic” has been held at Externado University in Bogotá, Colombia.

The seminar was organized to introduce the data base of Covid-19 litigation, a unique collection of judicial decisions coming from more than 80 countries all over the world. The focus of the seminar analysis was the Latin and Central American region.

During the first session COVID-19 Litigation Project's results have been presented and discussed. The seminar was introduced by **the Rector and the Dean of the Law Faculty of Externado de Colombia University**. Both highlighted the importance of the project's database to serve as input for the preparation of guidelines, public policies, legislations and decisions in the face of possible future crises of global scope caused by health or other emergencies.

The Covid-19 Litigation Project database counts almost 2,000 Covid related judgments and breaking news concerning the latest judicial decisions so far, and it is constantly growing thanks to its worldwide network of experts and scholars. The project was presented in the first roundtable with **Benn McGrady (WHO)**, **Ignacio Ibarra (PAHO)**, **Paola Iamiceli (University of Trento, Scientific Coordinator of the Covid-19 Litigation Database Project)**, **Natalia Rueda (Externado de Colombia University, Covid-19 Litigation team coordinator for Latin America)**, **Fabrizio Cafaggi (Council of State, Italy; Coordinator of Covid-19 Litigation' Network of Judges and Legal Scholars)** and **Ricardo Lorenzetti (Supreme Court of Justice of the Nation, Argentina)**.

The full video can be seen [here](#)

The World Health Organization and the Pan American Health Organization highlighted the relevance of the data collected, as well as the magnitude and scope of the project. Both stated that the database of Covid related judgments is an instrument that should continue to be developed with a view to strengthening it for use in the **development of public health policies**. This is precisely because the lack of preparation of the states to face crises of great magnitude has been demonstrated.

Professor Iamiceli presented the database, the project objectives, the methodology, the comparative approach, and some data related to the trends identified in relation to the number of cases by region, the results of the claim, the areas of law with the highest number of litigations. She also presented the conclusions regarding the role of the courts in times of pandemic and the core aspects emerged throughout the caselaw analysis, with special reference to the use of general principles, the dialogue between law and science, and the attention to vulnerable groups to guarantee their fundamental rights. A view on the aftermath of the pandemic was briefly presented with a special focus on claims for damages, whose relevance is probably due to grow in the coming months and years.

Professor Rueda focused on Latin America and the Caribbean. She is the coordinator of the Latin American team that includes experts and scholars from many countries. She summarized the report that describes the differences and similarities of Central and Latin American countries. She provided data concerning the litigation and analysed the various areas with particular attention to the instruments of judicial protection that Latin American courts dispose of. She explained some particularities about the selection and the differences regarding the vulnerable groups, the main areas, and the urgent judicial actions identified by the team in Latin America.

Professor Cafaggi focused on the role of courts in health crisis management and the different forms of judicial protection distinguishing between ex ante and ex post and between emergency and ordinary procedures. He presented the history of the project and the criteria for the collection of the cases to create a worldwide database with courts' decision on COVID 19 government related measures. He pointed out that the objective was to determine the role of litigation in emergency times past, present and future. He suggested that the legacy of Covid 19 litigation will contribute to change the perspective on the role of courts in times of emergency. He concluded with some reflections regarding the future of the litigation in matter of States' liability distinguishing between actions and omissions.

All of them emphasized that the database ***does not intend to offer a comprehensive statistical view of the litigation, but rather a more qualitative perspective*** through extensive case law research and accurate selection of relevant cases by scholars and judges.

All the participants coming from different Latin and Central American countries offered different perspectives about the litigation during the pandemic, especially in Argentina, Chile, Colombia and Ecuador. The ***general conclusion*** was the usefulness of the project to offer an input and information for possible comparative analysis, a conclusion stimulated by Ms. Salazar's practical example on how to use the database data with an idea of critical comparison regarding vulnerable groups.

At the end, Professor Rueda concluded by stressing the importance of the project and pointing out the need to open the door to a ***greater dialogue between the global south and the countries of Europe and North America***. She highlighted the necessity to involve national judges, lawyers, and public officials to make the

most effective use of the database and to update and improve the quality of reporting.

The seminar in Bogotá has been the first of a series of dissemination events that will take place in different countries and continents. The next one is organized by the Project Coordinator, the University of Trento and will take place in **Trento** on the **29th of November 2022** within a wider initiative on “Governing global health in times of pandemic”. The programme will be available soon on the project website.