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Multi-level Constitutional Protection of Health Rights: Analyzing the Effectiveness and Interaction of Popular and Group Actions in Colombia

Proteção Constitucional Multinível dos Direitos à Saúde: Analisando a Efetividade e Interação das Ações Populares e Coletivas na Colômbia

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Abstract: This article discusses Colombia's multi-level constitutional health rights protection and how popular and group actions complement tutela actions, structural litigation, and constitutional review to address systemic health issues. The study found that tutela actions for immediate rights protection, structural litigation for systemic remedies, collective actions for shared health interests, and constitutional review for health-related law shaping strengthen health rights protection in Colombia. In environmental health cases from 2003-2024, administrative tribunals expanded health rights protection beyond medical care to include environmental and infrastructure determinants, reflecting a broader understanding of health rights in Colombia. The "Coordinated Multilevel Protection Model" (CMPM) explains how micro (individual tutelas), meso (collective actions), macro (structural litigation), and constitutional review

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levels interact to allow strategic migration when one level is insufficient. The CMPM conceptualizes how legal mechanisms complement and overlap to create a flexible system that allows coordinated and strategic health rights responses, improving Colombia's multi-level protection approach. Colombia's multi-level approach has improved health rights protection, but delays in structural orders and the high volume of tutelas strain the judicial system and limit systemic impact. Optimizing protection level interactions, better integrating judicial decisions with public health policies, and using new technologies to protect health rights are recommended by the study.

Keywords: Health rights. Popular actions. Group actions. Environmental health. Collective litigation.

Resumo: Este artigo analisa a proteção constitucional multinível dos direitos à saúde na Colômbia e como as ações populares e coletivas complementam as ações de tutela, o litígio estrutural e a revisão constitucional para abordar questões sistêmicas de saúde. O estudo constatou que as ações de tutela para proteção imediata de direitos, o litígio estrutural para soluções sistêmicas, as ações coletivas para interesses compartilhados de saúde e a revisão constitucional para modelagem de leis relacionadas à saúde fortalecem a proteção dos direitos à saúde na Colômbia. Em casos de saúde ambiental de 2003-2024, os tribunais administrativos expandiram a proteção dos direitos à saúde além dos cuidados médicos, incluindo determinantes ambientais e de infraestrutura, refletindo uma compreensão mais ampla dos direitos à saúde na Colômbia. O "Modelo de Proteção Multinível Coordenada" (MPMC) explica como os níveis micro (tutelas individuais), meso (ações coletivas), macro (litígio estrutural) e revisão constitucional interagem para permitir a migração estratégica quando um nível é insuficiente. O MPMC conceitua como os mecanismos legais se complementam e se sobrepõem para criar um sistema flexível que permite respostas coordenadas e estratégicas aos direitos à saúde, melhorando a abordagem de proteção multinível da Colômbia. A abordagem multinível da Colômbia melhorou a proteção dos direitos à saúde, mas atrasos nas ordens estruturais e o alto volume de tutelas sobrecarregam o sistema judicial e limitam o impacto sistêmico. O estudo recomenda otimizar as interações dos níveis de proteção, melhor integrar as decisões judiciais com as políticas de saúde pública e usar novas tecnologias para proteger os direitos à saúde.

Palavras-chave: Direitos à saúde. Ações populares. Ações coletivas. Saúde ambiental. Litígio coletivo.

Contents: Introduction – **1** Methodology – **2** General Context of Health Rights protection Through Constitutional Actions – **3** Popular Actions and Group Actions in Health-related Cases in Colombia – **4** Interactions between protection mechanisms and Transformations in the Protection of the Right to health. – Conclusion – References

Introduction

Colombian tutela actions have protected the right to health by providing immediate judicial protection and access to medical services, treatments, and medications since 1991.¹ Additionally, major cases like T-760 of 2008, which compelled systemic health system improvements to address imbalances, have

¹ TEJADA, Claudia. M.; BERRÍO CASTAÑO, Argiro; VARGAS JARAMILLO, Julian. Acciones de tutela sobre el derecho a la salud en el municipio de Leticia, Amazonas, 2004-2008. *Iatreia*, [S. l.], v. 23, n. 4, p. 335-343, 2012. Available at: <https://revistas.udea.edu.co/index.php/iatreia/article/view/11139>. Accessed on: 12 jan. 2024; VELEZ, Alba L. La acción de tutela: ¿un mecanismo de protección del derecho a la salud y un proceso alternativo para acceder a servicios de salud? *Colombia Medica*, [S. l.], v. 36, n. 3, p. 199-208, 2005. Available at: <https://colombiamedica.univalle.edu.co/index.php/comedica/article/view/365>. Accessed on: 12 jan. 2024.

enhanced this legal framework.² However, tutela actions, have raised concerns about its sustainability and effectiveness. in addressing systemic health issues.³ Popular and group actions can indirectly protect the right to health by addressing collective interests like environmental protection or public sanitation. In community well-being crises, these mechanisms reinforce the right to health through systemic and preventive measures.⁴

Thousands of lawsuits are filed annually in Colombia to gain access to medications and healthcare, overwhelming the judicial system and exposing healthcare sector inefficiencies. Enforcing citizens' health rights requires legal mechanisms.⁵ Tutela actions are effective and fast at protecting health rights, but court orders often face delays, healthcare provider noncompliance, and limited institutional capacity, which undermines their effectiveness and highlights the need for stronger enforcement mechanisms to ensure timely access to healthcare services and medications.⁶ A comprehensive, long-term health rights framework must assess how legal systems, institutional reforms, and individual litigation affect healthcare access and systemic health needs to provide sustainable and equitable solutions for all populations' immediate and structural health needs.

² ARRIETA-GÓMEZ, Aquiles I. Realizing the Fundamental Right to Health through Litigation: The Colombian Case. *Health and Human Rights*, [S. l.], v. 20, n. 1, p. 133-145, 2018. Disponível em: <https://pmc.ncbi.nlm.nih.gov/articles/PMC6039729>. Acesso em: 15 fev. 2024; RESTREPO-ZEA, Jairo H.; CASAS-BUSTAMANTE, Lina P.; ESPINAL-PIEDRAHITA, Juan J. Universal coverage and effective access to health care: What has happened in Colombia ten years after Sentence T-760? *Revista de Salud Pública*, Bogotá, Colombia, [S. l.], v. 20, n. 6, p. 670-676. Available at: http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S0124-00642018000600670. Accessed on: 13 abr. 2024.

³ GONZALEZ, Ana C.; DURAN, Juanita. Impact of court rulings on health care coverage: the case of HIV/AIDS in Colombia. *MEDICC Review*, [S. l.], v. 13, n. 3, p. 54-57, 2011. Available at: http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S0124-00642018000600670. Accessed on: 02 maio 2024.

⁴ GAMARRA-AMAYA, Laura C.; VENEGAS SEGURA, Andrés A.; FINO-PUERTO, Nelson. R. Protecting collective rights in Colombia. *Revista Científica General José María Córdova*, [S. l.], v. 21, n. 44, p. 1005-1026, 2023. Available at: <https://doi.org/10.21830/19006586.1111>. Accessed on: 2 jun. 2024; PAEZ-MURCIA, Ángela. M., LAMPREA-MONTEALEGRE, Everaldo, & VALLEJA-PIEDRAHITA, Catalina. Medio ambiente y acciones populares en Colombia: un estudio empírico. *Vniversitas*, [S. l.], v. 66, n.134, p. 209, 2017. Available at: <https://doi.org/10.11144/Javeriana.vj134.maap> Accessed on: 3 feb 2024.

⁵ FREIBERG, Andres; ESPIN, Jaime. Towards a taxonomy of judicialisation for access to medicines in Latin America. *Global Public Health*, [S. l.], v. 17, n. 6, p. 912-925, 2021. Available at: <https://doi.org/10.1080/17441692.2021.1892794>. Accessed on: 12 mar. 2024; GUTIERREZ-SILVA, Rodolfo. *Healthcare rights on trial in Latin America: A comparative study*. Bogota: Fondo Editorial-Ediciones Universidad Cooperativa de Colombia, 2024; VARGAS-PELÁEZ, Claudia M.; MATTOZO ROVER, Marina. R.; NAIR LEITE, Silvana; ROSSI BUENAVENTURA, F.; ROCHA FARIAS, M. Right to health, essential medicines, and lawsuits for access to medicines—a scoping study. *Social Science & Medicine*, [S. l.], v. 121, p. 48-55, 2014. Available at: <https://doi.org/10.1016/j.socscimed.2014.08.042>. Accessed on: 11 mar. 2024.

⁶ GÓMEZ-CEBALLOS, Diego; CRAVEIRO, Isabel; GONCALVES, Luzia. Judicialization of the right to health: (Un) compliance of the judicial decisions in Medellín, Colombia. *The International Journal of Health Planning and Management*, [S. l.], v. 34, n. 4, p. 1277-1289. 2019. Available at: <https://doi.org/10.1002/hpm.2793>. Accessed on: 11 mar. 2024.

Colombian tutela health rights enforcement has been extensively studied, showing its benefits in healthcare accessibility, however, challenges remain in addressing institutional inefficiencies, judicial overburden, and unsustainable healthcare industry demands. Balanced reforms are advocated to enhance individual and collective health rights.⁷ The T-760 decision was praised for its potential to unify and advance health rights in Colombia, but it was criticised for its slow implementation, lack of enforcement, and limited impact on addressing deep-rooted systemic inequalities, highlighting the difficulties of translating judicial rulings into widespread healthcare improvements. Collective litigation is helping groups and communities in many countries seek justice, hold institutions responsible, and reform policy to address widespread social and systemic concerns like environmental degradation, public health crises, and human rights violations.⁸ However, few studies have examined the topic of the protection of the right to health through popular actions and group actions.⁹ Although there are some studies examining popular actions and group actions in relation to consumer and environmental rights. However, little is known about how collective litigation instruments interact with individual and structural mechanisms to address systemic health issues. To fill these gaps, this study examines Colombia's multi-level constitutional health rights protection through collective litigation.

This article examines Colombia's multi-level health rights protection in four sections. The first section examines the general context of constitutional health rights protection in Colombia, including the jurisprudential development of tutela actions and constitutional review and the historical and social factors that have shaped it. Then, it examines how popular and group actions have been used to address systemic public health issues, focusing on environmental and public service infrastructure issues, and their challenges. Third, it examines how different protection mechanisms complement or conflict and how these interactions affect health rights protection, especially in changing legal and social contexts. Finally, it proposes the Coordinated Multilevel Protection Model (CMPM) to understand the dynamics between different levels of judicial protection of the right to health, integrating legal instruments and governance levels and suggesting ways to improve health rights protection in Colombia and beyond.

⁷ YAMIN, Alicia E.; PARRA-VERA, Oscar. How do courts set health policy? The case of the Colombian Constitutional Court. *PLoS Medicine*, [S. l.], v. 6, n. 2, p. 0147-0150, 2009. Available at: <https://doi.org/10.1371/journal.pmed.1000032>. Accessed on: 15 mar. 2024.

⁸ HENSLER, Debora. R. The global landscape of collective litigation. In: HENSLER, Debora; HODGES, Christopher; TZANKOVA Ianika (Eds.). *Class actions in context: how culture, economics and politics shape collective litigation*. Uk: Edward Elgar Publishing. 2016. Available at: <https://doi.org/10.4337/9781783470440.0008>. Accessed on: 22 mar. 2024.

⁹ GUAYACAN ORTIZ, Juan C. *Las acciones populares y de grupo frente a las acciones colectivas*. Elementos para la integración del derecho latinoamericano. Vol. 5. Universidad. Externado de Colombia, 2014.

1 Methodology

Selection of Cases and Analysis

The study examines health-related popular and group actions in Colombia during 2003-2024, focusing on cases involving environmental and infrastructure impacts on public health. Cases were selected based on the following criteria:

- (1) Cases involving environmental determinants of health
- (2) Decisions related to public service infrastructure affecting health
- (3) Cases addressing waste management with public health impact
- (4) Litigation involving collective protection of health rights
- (5) Availability of complete judicial decisions and follow-up information

Based on these criteria, fifteen cases were identified and analyzed, representing diverse geographical regions and different levels of the judiciary, including Administrative Tribunals and the Constitutional Court.

Data Analysis

The analysis of jurisprudence and legal documents followed these steps:

- (1) Systematic review of judicial decisions from administrative tribunals
- (2) Classification of cases according to type of environmental or infrastructure impact
- (3) Identification of judicial reasoning patterns and remedies ordered
- (4) Analysis of implementation challenges and effectiveness
- (5) Cross-case comparison to identify emerging protection patterns.

Phase 1: Initial Coding and Categorization

Cases were coded according to:

- Type of environmental health impact
- Nature of infrastructure deficiency
- Remedies ordered by courts
- Implementation timeline and compliance

Phase 2: Thematic Analysis

The analysis identified recurring themes in judicial protection:

- Environmental contamination affecting community health
- Public service infrastructure deficiencies
- Waste management impacts
- Prevention and mitigation measures

Phase 3: Pattern Recognition

Cross-case analysis revealed:

- Evolution in judicial understanding of health-environment relationships
- Development of comprehensive remedial approaches
- Emergence of strategic litigation patterns
- Integration of individual and collective protection mechanisms

2 General Context of Health Rights Protection Through Constitutional Actions

Constitutional actions have allowed significant transformations in relation to the protection of the right to health in many countries in Latin America such as Colombia and Brazil. Indeed, in countries such as Colombia, the impact of these legal tools has been stronger since it has led to changes in health policies by pressing political institutions to act through structural rulings.¹⁰ On the other hand, in Brazil the excessive use of constitutional actions while it has improved access to healthcare for many individuals, it has also raised concerns about equity and resource allocation in health systems.¹¹ Unavoidably, this has led to an increase in the judicialization of health in the Latin American region characterised by a high level of litigation. For some commentators, this has also promoted queue jumping and inequities.¹²

In general terms, the 1991 Constitution enabled and empowered Colombian justices in order to protect the right to health directly or indirectly. As a result of that, the Colombian Constitutional Court has developed a robust doctrine on the justiciability of the right to health, covering many facets of this essential right. Health-related tutela lawsuits have a high success rate,¹³ but providers and health promoting entities often fail to comply with court orders, resulting in many

¹⁰ ARRIETA-GÓMEZ, Aquiles I. Realizing the Fundamental Right to Health through Litigation: The Colombian Case. *Health and Human Rights*, [S. l.], v. 20, n. 1, p. 133-145, 2018. Disponível em: <https://pmc.ncbi.nlm.nih.gov/articles/PMC6039729>. Acesso em: 15 fev. 2024.

¹¹ FERRAZ, Octavio. L. M. Health in the courts of latin america. *Health and Human Rights*, [S. l.], v. 20, n. 1, p. 67-77, 2018; WANG, Daniel W. L. Courts and health care rationing: the case of the Brazilian Federal Supreme Court. *Health Economics, Policy, and Law*, [S. l.], v. 8, n. 1, p. 75-93, 2013. DOI: <https://doi.org/10.1017/S1744133112000291>.

¹² YAMIN, Alicia E. The Right to Health in Latin America: The Challenges of Constructing Fair Limits. *University of Pennsylvania Journal of International Law*, [S. l.], v. 40, n. 3, p. 695, 2019.

¹³ GÓMEZ-CEBALLOS, Diego; CRAVEIRO, Isabel; GONCALVES, Luzia. Judicialization of the right to health: (Un) compliance of the judicial decisions in Medellín, Colombia. *The International Journal of Health Planning and Management*, [S. l.], v. 34, n. 4, p. 1277-1289. 2019. Available at: <https://doi.org/10.1002/hpm.2793>. Accessed on: 11 mar. 2024.

“incidente de desacato” procedures where courts impose punishments. Judgment enforcement issues reveal a deeper systemic issue where institutional resistance and structural barriers in the healthcare system prevent judicial intervention, which is necessary to protect individual rights. This shows that individual litigation cannot improve healthcare delivery.

Similarly, the Constitutional Court has also played a very important role in the protection and advancement of health-related rights through judicial review. For instance, the declaration of a state emergency led to the issuance of 115 legislative decrees during the Covid-19 pandemic, many of which were found unconstitutional by the Constitutional Court.¹⁴ At the same time, the Constitutional Court has played a significant role in shaping health policy, particularly regarding tobacco and sugar-sweetened beverages (SSBs). Thus, the court upheld a total ban on tobacco advertising, citing health concerns.¹⁵ Similarly, in relation to SSBs, the court has protected the right to informed consumption.¹⁶

Due to the difficulty of enforcing tutela decisions and the large number of similar health rights claims, the Constitutional Court recognized the need for structural approaches to address healthcare systemic failures rather than just resolving individual cases. Structured litigation in Colombian health rights protection was shown in judgment T-760/2008, when the Constitutional Court aggregated 22 cases to evaluate systemic rights violations. The Court ordered structural reforms in order to fix fundamental healthcare system deficiencies. The Court also recognized health as a fundamental right and ordered the government to improve coverage, resource allocation, and regulatory monitoring measures to overcome widespread inequalities that tutelas could not address. Structured litigation incorporates implementation timetables, monitoring methods, and institutional coordination requirements and is starting to replace individual disputes in health system governance. Despite this, health rights litigation is increasing in the country. The Colombian Constitutional Court issued 197,765 tutelas in 2023, the third-highest

¹⁴ CASTRO HERNANDEZ, María A. Control constitucional del Estado de excepción y los decretos expedidos en Colombia durante el año 2020 con ocurrencia del Covid-19 y la vulneración de derechos fundamentales. *Revista Jurídica Piélagus*, [S. l.], v. 20, n. 1, 2021. DOI: <https://doi.org/10.25054/16576799.3209>.

¹⁵ GUZMÁN, Silvia S.; TOVAR Ramírez, Ariadna; CABRERA, Oscar. Commercial Speech and the Prohibition of Tobacco Advertising: The Colombian Constitutional Court Approach. *Journal of Law, Medicine & Ethics*, [S. l.], v. 50, n. 2, p. 259-264, 2022.

¹⁶ BERNAL CAMARGO, Diana R.; BERNAL CAMARGO, Nancy. M. Derecho al consumo informado: el caso de las bebidas azucaradas en Colombia. *Revista Repertorio de Medicina y Cirugía*, [S. l.], v. 29, n. 2, p. 84-92, 2020. DOI: <https://doi.org/10.31260/RepertMedCir.01217273.967>.

amount since 1991.¹⁷ Again in 2024, the first quarter saw 84,445 tutelas.¹⁸ In 53.66% of cases, judges have helped tutelantes, exceeding 18.73% and conceding 5.52%, demonstrating the importance of judicial power in ensuring access to health services. Usually, expensive HIV medicines like anti-retrovirals are ordered,¹⁹ this includes cancer medications, treatment for severe psychiatric disorders, and even financing treatment abroad when unavailable in Colombia. After over 674,612 health-related complaints were submitted between 1999 and 2008, the Colombian Constitutional Court's historic ruling T-760/2008 declared health a basic right and mandated structural reforms to address pervasive disparities.²⁰ This ruling consolidated 22 health cases to proclaim health a fundamental right and require a major overhaul of coverage, resource allocation, and regulatory oversight to remedy serious inequities.²¹ Judgement T-760 of 2008 by Colombia's Constitutional Court marked a significant shift in the country's healthcare system, recognizing health as a fundamental right.²² Indeed, this ruling ordered the government to address systemic flaws, equalize health benefit plans, and ensure universal coverage²³ (Valencia et al., 2009) and prompted legislative action, culminating in the 2015 Statutory Health Law (Ley 1751).

Similarly, in T-025/2004,²⁴ the Constitutional Court found systematic failures in basic medical services, mental health treatment, vulnerable group care, and preventive care, including vaccination coverage, for internally displaced populations.

¹⁷ See: <https://consultorsalud.com/colombianos-198-000-tutelas-salud-defensoria/>.

¹⁸ See: <https://www.infobae.com/colombia/2024/08/16/cifra-de-tutelas-y-pqrs-en-el-sistema-de-salud-aumentaron-en-el-primer-cuatrimestre-de-2024/>.

¹⁹ GONZALEZ, Ana C.; DURAN, Juanita. Impact of court rulings on health care coverage: the case of HIV/AIDS in Colombia. *MEDICC Review*, [S. l.], v. 13, n. 3, p. 54-57, 2011. Available at: http://www.scielo.org.co/scielo.php?script=sci_arttext&pid=S0124-00642018000600670. Accessed on: 02 maio 2024; PRACHNIAK-RINCON, Corey; VILLAR DE ONIS, Jimena. HIV and the Right to Health in Colombia. *Health and human rights*, [S. l.], v. 2, n. 2, p. 157-169, 2016.

²⁰ ARRIETA-GÓMEZ, Aquiles I. Realizing the Fundamental Right to Health through Litigation: The Colombian Case. *Health and Human Rights*, [S. l.], v. 20, n. 1, p. 133-145, 2018. Disponível em: <https://pmc.ncbi.nlm.nih.gov/articles/PMC6039729>. Acesso em: 15 fev. 2024.

²¹ RESTREPO-ZEA, Jairo H.; CASAS-BUSTAMANTE, Lina; ESPINAL-PIEDRAHITA, Juan J. Cobertura universal y acceso efectivo a los servicios de salud: ¿Qué ha pasado en Colombia después de diez años de la Sentencia T-760? *Revista de Salud pública*, [S. l.], v. 20, n. 6, p. 670-676, 2020.

²² GÓMEZ-GARCÍA, Carlos A.; BUILES-VELÁSQUEZ, Alejandro. El derecho fundamental a la salud y la política de acceso al sistema: una mirada desde la Ley Estatutaria 1751 del año 2015. *Revista de la Facultad de Derecho y Ciencias Políticas*, [S. l.], v. 48, n. 128, p. 135-167, 2018.

²³ VALENCIA, M.; BORRERO, Yadira E.; PEREZ, Eliana M.; MUÑOZ, Nora E.; CACERES, Flor. Modificaciones al Sistema General de Seguridad Social en Salud a la luz de una sentencia de la Corte Constitucional de Colombia: una propuesta. *Revista Facultad Nacional de Salud Pública*, [S. l.], v. 27, n. 3, p. 356-363, 2009.

²⁴ COLOMBIAN CONSTITUTIONAL COURT. *Judgment T-025/2004*, Magistrado Ponente: Manuel José Cepeda Espinosa. Available at: <https://www.corteconstitucional.gov.co/relatoria/2004/t-025-04.htm>. Accessed on: 12 out. 2025.

At the same time, in T-388/2013,²⁵ the Court declared the prison healthcare system unconstitutional due to systematic denial of medical services, unsanitary conditions, insufficient infrastructure and staff, and delays in medical appointments and treatments. In the same way in T-302/2017,²⁶ the Court addressed health violations in the Wayúu community of La Guajira, such as malnutrition, preventable deaths, inadequate healthcare infrastructure, and cultural barriers, emphasizing the need for diverse healthcare approaches. Furthermore, T-357/2017²⁷ required a differential health model that integrates traditional medicine, addresses geographic barriers to healthcare, and culturally adapts healthcare for displaced indigenous Vaupés communities.

Based on this jurisprudential progression, T-290/2024²⁸ established that people have the right to reside in their dwellings in minimal hygienic conditions without health or privacy hazards, demonstrating how structural remedies combine environmental and health rights. These structural decisions shift court intervention from case resolution to systemic community health challenges, necessitating coordinated institutional solutions and new rights frameworks. Individual and structural litigation have changed Colombia's health rights protection landscape, however, critics argued that individual tutelas have overwhelmed the courts while structural orders are delayed, and health rights breaches persist.

While tutela traditionally addresses individual cases, the Constitutional Court's SU-196 of 2023 ruling established that tutela can exceptionally protect environmental rights when there is a direct connection to fundamental rights, creating a more nuanced relationship between individual and collective health rights protection. The Court has developed a sophisticated framework where individual tutela cases can have collective effects through inter communis rulings that extend protection to others in similar situations, while popular actions remain the primary mechanism for collective rights protection, particularly in cases seeking corrective measures for environmental contamination.

²⁵ COLOMBIAN CONSTITUTIONAL COURT. *Judgment T-388/2013*, Magistrado Ponente: María Victoria Calle Correa. Available at: <https://www.corteconstitucional.gov.co/relatoria/2013/t-388-13.htm>. Accessed on: 12 out. 2025.

²⁶ COLOMBIAN CONSTITUTIONAL COURT. *Judgment T-302/2017*, Magistrado Ponente: Aquiles Arrieta Gómez. Correa. Available at: <https://www.corteconstitucional.gov.co/relatoria/2017/t-302-17.htm>. Accessed on: 12 out. 2025.

²⁷ COLOMBIAN CONSTITUTIONAL COURT. *Judgment T-357/2017*, Magistrado Ponente: Gloria Stella Ortiz Delgado. Available at: <https://www.corteconstitucional.gov.co/relatoria/2017/t-357-17.htm>. Accessed on: 12 out. 2025.

²⁸ COLOMBIAN CONSTITUTIONAL COURT. *Judgment T-290/2024*, Magistrado Ponente: Jorge Enrique Ibañez Najar. Available at: <https://www.corteconstitucional.gov.co/Relatoria/2024/T-290-24.htm>. Accessed on: 12 out. 2025.

For tutela to protect environmental rights, three conditions must be met: there must be a direct link between collective and fundamental rights violations, an immediate consequence between collective right disturbance and fundamental right violation, and demonstration of direct personal impact on fundamental rights. The Constitutional Court in T-290/2024 further developed this doctrine by establishing that people have the right to inhabit their homes and live in minimum hygiene conditions that allow them to occupy urban properties without danger to their health and privacy, demonstrating how environmental and health rights merge.

3 Popular Actions and Group Actions in Health-Related Cases in Colombia

Popular and group actions are crucial for protecting collective health rights in Colombia because popular actions focus on preventing harm and protecting collective interests like public health infrastructure and environmental conditions affecting community health, while group actions allow communities to seek compensation for damages affecting multiple individuals under similar circumstances, such as healthcare quality standards.

Popular actions and group actions in Colombia are recognized in art. 88 of the Colombian Constitution and Law 472 of 1998.²⁹ It seeks the protection of collective rights threatened or affected by the actions and omissions of public and private institutions. Progress has been made regarding popular actions, however, it is necessary to strengthen them since they have weakened.³⁰ Popular and group

²⁹ Art. 4 of Law 472 of 1998 establishes the collective rights in Colombia, namely: "a) The enjoyment of a healthy environment, in accordance with what is established in the Constitution, the law, and regulatory provisions;

b) Administrative morality; c) The existence of ecological balance and the rational management and use of natural resources to ensure their sustainable development, conservation, restoration, or replacement. This includes the conservation of animal and plant species, the protection of areas of special ecological importance, of ecosystems located in border zones, as well as other community interests related to the preservation and restoration of the environment; d) The enjoyment of public space and the use and defense of public goods; e) The defense of public heritage; f) The defense of the cultural heritage of the Nation; g) Public safety and health; h) Access to service infrastructure that ensures public health; i) Free economic competition; j) Access to public services and their efficient and timely provision; k) The prohibition of the manufacture, import, possession, and use of chemical, biological, and nuclear weapons, as well as the introduction into the national territory of nuclear or toxic waste;

l) The right to safety and the prevention of disasters that are technically predictable; m) The realization of constructions, buildings, and urban developments respecting legal provisions, in an orderly manner, and giving prevalence to the benefit of the quality of life of the inhabitants; n) The rights of consumers and users.

³⁰ LONDOÑO-TORO, Beatriz; TORRES-VILLAREAL, María L. ¿Podrán las acciones populares Colombianas sobrevivir a los recientes ataques legislativos y jurisprudenciales? *Vniversitas*, [S. l.], v. 124, p. 235-259. 2012.

actions in Colombia are based on the 1991 Constitution, which allows individuals and groups to advocate for their collective rights.³¹ At the same time, Law 472 of 1998 provides a framework for their implementation.³² While Popular actions aim to protect collective rights, group actions address damages to specific groups.³³ However, recent legislation and jurisprudence have hindered these collective actions.³⁴ Indeed, in 2010, Law 1425 abolished important parts of Law 472 of 1998, eliminating economic incentives for popular actions.³⁵ On the other hand, studies show that these legal mechanisms have protected collective rights for decades.³⁶

These actions allow citizens to defend environmental rights and other collective interests.³⁷ Colombia's legal system emphasizes strong judicial activism and human rights protection, creating a new pattern of democracy that relies on legal institutions as functional equivalents to traditional democratic actors.³⁸ Popular consultations have been used to challenge extractive models, though their effectiveness has been curtailed by high courts.³⁹ These legal tools have empowered citizens, social movements, and various groups to challenge urban planning decisions and advocate for environmental protection.⁴⁰ The Colombian

³¹ GAMARRA-AMAYA, Laura C.; VENEGAS SEGURA, Andrés A.; FINO-PUERTO, Nelson. R.. Protecting collective rights in Colombia. *Revista Científica General José María Córdova*, [S. l.], v. 21, n. 44, p. 1005-1026, 2023. Available at: <https://doi.org/10.21830/19006586.11111>. Accessed on: 2 jun. 2024.

³² LONDOÑO-TORO, Beatriz; TORRES-VILLAREAL, María L. ¿Podrán las acciones populares Colombianas sobrevivir a los recientes ataques legislativos y jurisprudenciales? *Universitas*, [S. l.], v. 124, p. 235-259. 2012.

³³ BARON GRANADOS, Mauricio. Las acciones populares y de grupo en el derecho comparado. *Civilizar Ciencias Sociales y Humanas*, Bogotá, [S. l.], v.10, n. 19, p. 23-42. Jul/diez. 2010.

³⁴ LONDOÑO-TORO, Beatriz; TORRES-VILLAREAL, María L. ¿Podrán las acciones populares Colombianas sobrevivir a los recientes ataques legislativos y jurisprudenciales? *Universitas*, [S. l.], v. 124, p. 235-259. 2012.

³⁵ MEJIA, Publio Martín Andrés Patiño. ¿Los incentivos a las acciones populares en Colombia han desaparecido? *Jurídicas*, [S. l.], v. 8, n. 2, p. 58-72, 2011.

³⁶ OVALLE FAVELA, José. Acciones populares y acciones para la tutela de los intereses colectivos. *Boletín mexicano de derecho comparado*, [S. l.], v. 36, n.107, p. 587-615. 2003; SARMIENTO PALACIO, Germán. *Las acciones populares en el derecho privado colombiano*. Universidad del Rosario, 2006; LONDOÑO TORO, Beatriz; GONZALEZ ACOSTA, Angelica; FIGUEREDO MEDINA, Gerardo. Diagnóstico del impacto de la Ley colombiana de Acciones Populares y de Grupo en sus primeros diez años de vigencia: Resultados de investigación. *Boletín Mexicano de Derecho Comparado*, Ciudad de México [S. l.], v. 42, n. 126, set./dez. 2009.

³⁷ SOLIS, Constanza Gumucio. La protección del medio ambiente mediante la enseñanza legal clínica: el ejercicio de acciones populares por el Grupo de Acciones Públicas en Colombia. *Revista de Derecho Ambiental*, [S. l.], v. 11, p. 110-132, 2019.

³⁸ THORNHILL, Chris; RODRIGUEZ DE ARAUJO CALABRIA, Carina. Global constitutionalism and democracy: the case of Colombia. *Jus Cogen*, [S. l.], v. 2, p. 155-183, 2020.

³⁹ BOCANEGRA ACOSTA, Henry; CARVAJAL MARTINEZ, Jorge Enrique. Extractivismo, derecho y conflicto social en Colombia. *Revista republicana*, [S. l.], v. 26, p. 143-169, 2019.

⁴⁰ SOTOMAYOR, Luisa; MONTERO, Sergio; ANGEL-CABO, Natalia. Mobilizing legal expertise in and against cities: urban planning amidst increased legal action in Bogotá. *Urban Geography*, [S. l.], v. 44, p. 447-469, 2023.

Council of State plays a crucial role in adjudicating collective litigation cases, with success rates varying depending on the right under litigation.⁴¹ These actions allow citizens to challenge state and private entities to safeguard public interests.⁴²

Protecting communities affected by environmental contamination is a key area, particularly in cases related to glifosato aspersion and its impact on public health. Popular actions have changed public policies, even if initial results were unfavorable for demandants.⁴³

In relation to Popular actions in Colombia the right to health has been protected indirectly by Administrative Tribunals by analysing the interaction of collective rights such as Public safety and health, access to public services infrastructure and the preservation of the environment. Thus, in the case, 27001-23-31-000-2004-00550-01⁴⁴ the Administrative Tribunal of Chocó reviewed an environmental case where mining, waste dumping, and agricultural activities polluted the Río Cabi, impacting Quibdo's water supply. This pollution caused health issues and increased water treatment costs, exacerbated by inadequate sewage and wastewater treatment. The Court ordered to formulate a solid and liquid waste management plan and to execute decontamination actions to prevent health risks to the inhabitants while the wastewater treatment system begins to operate.

Similarly, in the case 41001-33-31-001-2008-00435-01 (2013-07-09)⁴⁵ the Administrative Tribunal of Huila also protected the collective rights to the public health and the enjoyment of a health environment in a case related to the municipality of Tello, which had been discharging its wastewater into the Rio Villavieja without any prior treatment.

In the case 17001-33-31-02-2006-00071-02 (2008-06-25)⁴⁶ the plaintiffs pointed out that the dumping causes the river to emit nauseating odors, which was

⁴¹ PAEZ, Angela M. Who Are You and What's Your Issue? Winning in Collective Litigation in Colombia. *Latin American Research Review*, [S. l.], v. 58, n. 3, p. 649-667, 2023.

⁴² BARON GRANADOS, Mauricio. Las acciones populares y de grupo en el derecho comparado. *Civilizar Ciencias Sociales y Humanas*, Bogotá, [S. l.], v.10, n. 19, p. 23-42. Jul/diez. 2010.

⁴³ CORTÉS CABALLERO, Daniel Sebastián. Las acciones populares para la defensa del medio ambiente en materia de fumigaciones con glifosato, constituyen litigio estratégico en materia ambiental. *Revista de Derecho*, [S. l.], n. 54, p. 31-58, 2021.

⁴⁴ TRIBUNAL ADMINISTRATIVO DE CHOCO. *Case 27001-23-31-000-2004-00550-01*. Magistrada Ponente: Dra. Norma Moreno Mosquera. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/27001-23-31-000-2004-00550-01.pdf>. Accessed on: 12 out. 2025.

⁴⁵ TRIBUNAL CONTENCIOSO ADMINISTRATIVO DEL HUILA. *Case 41001-33-31-001-2008-00435-01 (2013-07-09)*. Magistrado Ponente: Dr. Enrique Dussán Cabrera. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/41001-33-31-001-2008-00435-01..pdf>. Accessed on: 12 out. 2025.

⁴⁶ COLOMBIA. Tribunal de lo contencioso Administrativo de Caldas. *Case 17001-33-31-02-2006-00071-02 (2008-06-25)*. Magistrado Ponente: Carlos Alberto Arango Mejía. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/17001-33-31-002-2006-00071-02.pdf>. Accessed on: 12 out. 2025.

affecting the health of the people living along the riverbank. The Court ordered the public service companies Aguas de Manizalez S.A. E.S.P and Aquamania S.A. E.S.P to construct the necessary wastewater treatment facilities for the recovery of the Chinchiná river basin.

The waste (entrails, scales, decomposed meat, cans, wooden boxes, cardboard, bottles) from the Bazurto Market in the city of Cartagena is thrown into the Ciénaga de las Quintas, producing bad odors and a significant environmental impact. In the case 13001-23-31-000-2003-02588-01 acumulado 2005-00052-01 (2010-11-25)⁴⁷ the Administrative Tribunal of Cartagena concluded that to provide a radical solution to the sanitation and pollution problem, the District must, within four (4) years following the completion of the studies, carry out the definite relocation of the Bazurto Market.

In Bogotá, Bavaria S.A.'s alcohol ads on billboards lacked health warnings, breaching public safety and health rights. In the case 11001-33-31-023-2007-00384-01 (2009-11-12)⁴⁸ the Administrative Tribunal of Cundinamarca ruled in favor of these rights, mandating INVIMA to oversee advertising and prevent future violations. The defendants were instructed to comply, and the Ministry of Social Protection was tasked to create relevant advertising regulations.

Similarly, in 70001-33-33-001-2009-00036-03 (2015-03-26)⁴⁹ the Arroyo Grande de las Sabanas stream was polluted by domestic wastewater; causing odor and health risks. The judge upheld rights to public safety, health, and adequate infrastructure services.

Home in the Villa Luz neighborhood of Valledupar are situated beneath high tension electrical power lines. In the case 20001-33-33-006-2013-00049-01 (2017-05-04)⁵⁰ the Sixth Administrative Judge of the Circuit of Valledupar protected collective rights to public safety and health, and access to public services.

⁴⁷ COLOMBIA. Administrative Tribunal of Bolívar. *Case 13001-23-31-000-2003-02588-01 acumulado 2005-00052-01 (2010-11-25)*. Magistrado Ponente: Dr. Luis Miguel Villalobos Alvarez. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/13001-23-31-000-2003-02588-00acumulado2005-00052-01.pdf>. Accessed on: 12 out. 2025.

⁴⁸ COLOMBIA. Tribunal Administrativo de Cundinamarca. Sección Primera. Subsección B. Magistrado Ponente: Dr. Freddy Ibarra Martínez. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/11001-33-31-023-2007-00384-01.pdf>. Accessed on: 12 out. 2025.

⁴⁹ COLOMBIA. Tribunal Administrativo de Sucre. Sala tercera de decisión oral. Magistrado Ponente: Dr. Moises Rodríguez Pérez. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/70001-33-33-001-2009-00036-03.pdf>. Accessed on: 12 out. 2025.

⁵⁰ TRIBUNAL ADMINISTRATIVO DEL CESAR. Magistrado ponente: Carlos Alfonso Guecha Medina. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/20001-33-33-006-2013-00049-01.pdf>. Accessed on: 12 out. 2025.

The right to health can also be affected due to the lack of a public service infrastructure. In 11001-33-31-003-2007-00186-01 (2012-05-03)⁵¹ Residents of Ciudad Bolívar and Soacha in Bogotá were billed for non-provided water and waste services due to the informal status of their settlements. The Administrative Tribunal of Cundinamarca mandated the upholding of their rights to a healthy environment and proper public services in recognized neighborhoods.

Residents of the Cristo Rey neighborhood in Santa Marta lacked access to public potable water services despite requests to the appropriate administrative authorities. In 47001-33-33-007-2012-00102-01 (2017-11-08)⁵² the administrative Tribunal of Magdalena protected the collective right to access service infrastructure that ensures public health.

The National Health Superintendency's transfer of 4.3 million users from EPS Saludcoop to Cafesalud (Medimas) in 2015 overstretched the health service provider's capacity. In 25000-23-41-000-2016-01314-00 (2019-04-10)⁵³ the Administrative Tribunal of Cundinamarca ruled to safeguard the right to efficient and timely health services, ordering a six-month phased redistribution of Medimas users to other capable health service providers.

In examining health-related litigation, the Doña Juana landfill collapse in 1997 serves as a pivotal case. It resulted in substantial health, social, and environmental repercussions for nearby residents in Bogotá, Colombia, ultimately leading to legal action that recognized the emotional and moral damages inflicted by the exposure to hazardous conditions. However, despite this delays in court-ordered damages confused victims, while infractions damaged family privacy, leisure activities, environmental well-being, public health, and civil and political liberties.⁵⁴

⁵¹ TRIBUNAL ADMINISTRATIVO DE CUNDINAMARCA. Sección Primera. Subsección "A". Magistrado Ponente: Dr. Luis Manuel Lasso Lozano. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/25000-23-41-000-2016-01314-00.pdf>. Accessed on: 12 out. 2025.

⁵² TRIBUNAL ADMINISTRATIVO DEL MAGDALENA. Magistrada Ponente: María Victoria Quiñones Triana. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/47001-33-33-007-2012-00102-01.pdf>. Accessed on: 12 out. 2025.

⁵³ TRIBUNAL ADMINISTRATIVO DE CUNDINAMARCA. Sección Primera. Subsección "A". Magistrado Ponente: Dr. Luis Manuel Lasso Lozano. <https://www.consejodeestado.gov.co/documentos/biblioteca/libros/2019pr/Tomo2/25000-23-41-000-2016-01314-00.pdf>. Accessed on: 12 out. 2025.

⁵⁴ MARIN GALEANO, Mayda Soraya; ESTRADA GOMEZ, María C. Seguimiento a la aplicación de los estándares de reparación integral en la acción de grupo del relleno sanitario Doña Juana. *Ratio Juris*, [S. l.], v. 14, n. 29, p. 109-127, 2019.

Table 2. Health Rights Protection Through Popular Actions: Colombian Environmental Cases (2004-2024)

(Continua)

Typology	Case	Rights Protected	Identified Challenges	Judicial Actions Taken
1. Environmental Contamination and Public Health	Contamination of the Cabi River. case, 27001-23-31-000-2004-00550-01 the Administrative Tribunal of Chocó	Public health, access to clean water	Environmental contamination from mining, waste dumping, and agriculture; lack of wastewater treatment infrastructure	Court ordered the formulation and execution of a solid and liquid waste management plan and decontamination actions
	Discharge into the Villavieja River. case 41001-33-31-001-2008-00435-01 (2013-07-09), Administrative Tribunal of Huila)	Public health, right to a healthy environment	Untreated wastewater discharges and deficient municipal infrastructure	Ordered the construction of a wastewater treatment facility and protection of the right to a healthy environment
	Contamination of the Chinchiná River Basin (Case No. 17001-33-31-02-2006-00071-02, 2008-06-25)	Public health, environmental protection	Polluted river causing health hazards from nauseating odors	Required public service companies to build wastewater treatment facilities
	Pollution from Bazurto Market affecting Ciénaga de las Quintas (Case No. 13001-23-31-000-2003-02588-01 acumulado 2005-00052-01, 2010-11-25, Administrative Tribunal of Cartagena)	Public health, environmental protection	Waste from market contaminating water and air	Ordered the relocation of Bazurto Market and environmental remediation
	Pollution of the Arroyo Grande de las Sabanas Stream (Case No. 70001-33-33-001-2009-00036-03, 2015-03-26)	Public safety, public health	Domestic wastewater discharges causing pollution and health risks	Ordered infrastructure improvements for wastewater treatment

(Conclusão)

Typology	Case	Rights Protected	Identified Challenges	Judicial Actions Taken
2. Deficient Infrastructure and Access to Public Services	Lack of Public Services in Informal Settlements (Case No. 11001-33-31-003-2007-00186-01, 2012-05-03, Administrative Tribunal of Cundinamarca)	Public health, access to public services	Billing without service provision; informal settlement status	Court ordered access to public services and recognition of rights
	Lack of potable water in Cristo Rey neighborhood, Santa Marta (Case No. 47001-33-33-007-2012-00102-01, 2017-11-08, Administrative Tribunal of Magdalena)	Public health, access to service infrastructure	inadequate access to potable water despite repeated requests	Required authorities to ensure water service access
	Homes beneath high-tension power lines in Valledupar (Case No. 20001-33-33-006-2013-00049-01, 2017-05-04, Sixth Administrative Judge of the Circuit of Valledupar)	Public health, public safety	Health and safety risks from electrical infrastructure	Ordered relocation or protective measures for affected residents
3. Advertising and Health Regulation	Alcohol Advertising without Health Warnings. case 11001-33-31-023-2007-00384-01 (2009-11-12)	Public health, public safety	Unregulated advertising, lack of health warnings	Required stricter health warnings and regulation oversight by INVIMA
4. Execution of Sentences and Judicial Compliance	Doña Juana Landfill Case	Public health, family privacy, environment	Delays in executing judicial sentences; confusion among affected residents	Recognition of moral and emotional damages; ordered timely compliance

Environmental lawsuits in Colombia, such as the Río Cabi, Río Villavieja, and Chinchiná River cases, demonstrate the protection of communal health rights by administrative tribunals. For immediate health hazards and long-term community wellbeing, courts ordered comprehensive environmental management plans and wastewater treatment infrastructure. The Bazurto Market in Ciénaga de las Quintas illustrates how garbage management affects the environment. Effective garbage disposal is linked to public health, hence courts have implemented market relocation and complete waste management systems to preserve community health. Third, courts have consistently upheld the fundamental link between access to basic public services, particularly potable water, and public health in recognised neighbourhoods, as shown in the Ciudad Bolívar informal settlements case and the Cristo Rey neighbourhood in Santa Marta. Fourth, public safety and environmental risk prevention, as shown in the Villa Luz neighbourhood case involving homes under high-tension power lines and the Bavaria alcohol advertisement case, where the courts used systematic risk assessment to mitigate health issues.

Indirect mechanisms can protect health rights, especially when courts recognise and act on the complex relationships between environmental conditions, public infrastructure, and community health outcomes, creating a stronger framework for preventive measures and structural solutions. These trends show a sophisticated judicial grasp of how collective rights affect public health, resulting in a complete framework that safeguards health rights through environmental quality, infrastructure, and public services.

4 Interaction between Protection Mechanisms and Transformations in the protection of the right to health

The Colombian system presents a dynamic interaction among several legal mechanisms in relation to four protection levels: micro (individual tutelas), meso (popular and group actions), macro (structural lawsuits) and Constitutional review (actions of unconstitutionality and abstract review). Each level has unique functions in the health rights ecosystem. Individual tutelas, with a 53.66% success rate, respond quickly to specific and urgent infractions, especially those involving service or medicine rejection. This micro level of protection addresses acute health needs and expedites vital therapies during systemic healthcare system deficits. Meso-level popular and group actions protect communities from public health infrastructure and environmental hazards. These tools target systemic issues that affect entire communities, expanding protection. Long administrative delays slow health rights

protection. Lax enforcement of court decisions in cases like the Doña Juana dump collapse resulted in prolonged rights violations and uncertainty for victims. Both T-760/2008 and T-357/2017 demonstrate structural lawsuits' impact. In T-760/2008, health became an autonomous fundamental right and coverage, resource allocation, and regulatory monitoring were examined. T-357/2017 needed a differential health model for Vaupés' displaced Indigenous community. These structural judgments promote comprehensive, context-specific healthcare system improvements by addressing basic problems in its design and operation. Similarly, Constitutional review increases protection through unconstitutionality and abstract review at the fourth level. Health-related laws and regulations can be checked for constitutionality at this level. For instance, the Constitutional Court has reviewed tobacco laws and sugar-sweetened beverage regulations to ensure they uphold the right to health and other constitutional principles.

As shown in the table, the cases that involve indirectly the protection of the right to health in Colombia through popular and group actions, particularly in environmental and public service infrastructure cases, are complex. This innovative judicial approach sets a precedent in Latin American collective rights jurisprudence by demonstrating a deep understanding of environmental health and community well-being. River pollution and poor waste management demonstrate how Colombian administrative courts have expanded health rights protection beyond medical care to address environmental and infrastructure factors that directly affect public health. A paradigm shift in jurisprudence has made the right to health multidimensional and linked to other collective rights like access to adequate public services and a healthy environment.

The use of popular actions by courts to order structural and preventive public health remedies beyond individual compensation is noteworthy. In the Río Cabi case, the court ordered immediate pollution mitigation, waste management plans, and long-term decontamination, promoting community health. The T-290/2024 case shows that the "right to health" now includes the recognition of dignity and privacy in the home. The relationship between living conditions, mental health, and physical well-being is increasingly recognized in jurisprudence, expanding public health judicial protection.

"Strategic migration" between legal mechanisms, where citizens use collective tutelas when popular actions are delayed, shows unexpected adaptability in Colombian health litigation. This dynamic subsidiarity between legal procedures shows litigants' creativity and the judicial system's flexibility, but it also raises questions about rights protection mechanisms' effectiveness and interaction.

The New theoretical model “Coordinated Multilevel Protection Model” (CMPM) addresses Colombia’s complex legal mechanisms for protecting the right to health. This model protects health rights at three levels: micro (individual tutelas), meso (popular and group actions), macro (structural litigation), and Constitutional review (actions of unconstitutionality and abstract review). The CMPM proposes that these levels interact dynamically to create a legal ecosystem where deficiencies at one level can be compensated by activating mechanisms at another. While individual tutelas (micro level) can lead to structural litigation (macro level), popular actions (meso level) can address systemic issues affecting entire communities, complementing them.

This model offers a new theoretical perspective on how legal mechanisms protect health and overlap. The CMPM provides a more comprehensive and dynamic framework for assessing health litigation in Colombia than previous analyses that examined each mechanism separately. The CMPM describes “strategic migration” between legal mechanisms as an adaptive response to multilevel rights protection. This perspective helps us understand the judicialization of health in Colombia and may apply to other contexts with multiple rights protection mechanisms. Finally, Colombia’s judicial protection of the right to health now considers the interconnectedness of health, environment, and public services. Health and collective rights research and policy development can benefit from the Coordinated Multilevel Protection Model’s new theoretical framework for understanding and analysing this complex reality.

Conclusion

The comprehensive analysis of health rights protection mechanisms in Colombia reveals a complex and dynamic legal landscape characterized by the synergistic interaction between individual tutelas, popular and group actions, structural litigation and constitutional review. This research has highlighted the significant evolution in the conceptualization and judicial protection of the right to health, transcending the traditional focus on medical care to encompass environmental and infrastructure determinants that directly impact public health. The proposed Coordinated Multilevel Protection Model (CMPM) represents an innovative theoretical contribution to understanding and analyzing the intricate interplay between various legal mechanisms used in protecting the right to health in Colombia. This model conceptualizes health rights protection at four interconnected levels: micro (individual tutelas), meso (popular and group actions), macro (structural litigation)

and constitutional review, offering a novel theoretical lens for understanding how different legal mechanisms complement and sometimes overlap in health rights protection. Furthermore, the CMPM allows for explaining phenomena such as “strategic migration” between legal mechanisms, conceptualizing it as an adaptive response within a multilevel system of rights protection. Importantly, Constitutional review as a fourth level helps us understand how systemic changes through judicial review of health-related laws and regulations can reduce individual litigation.

However, despite these significant advancements, it is crucial to acknowledge the persistent limitations and challenges in the current system. The overwhelming number of individual tutelas, delays in implementing structural orders, and the persistence of systemic health rights violations suggest that there is still a long way to go in achieving comprehensive and effective protection of the right to health in Colombia. In this context, future research should explore how to optimize the interaction between different levels of protection, minimizing duplication of efforts and maximizing the systemic impact of judicial interventions. Additionally, it is imperative to examine how the CMPM could be applied in other Latin American contexts and beyond, considering variations in legal frameworks and socioeconomic realities across different countries. This could lead to the development of a broader comparative model that allows for identifying best practices in judicial protection of the right to health on a global scale. Moreover, deeper research is needed on how to effectively integrate judicial decisions with public health policies, ensuring that judicial interventions not only address immediate needs but also contribute to sustainable systemic reforms in the long term. Finally, it is essential to explore how new technologies, such as artificial intelligence and big data, could be incorporated into the CMPM to enhance the efficiency and effectiveness of health rights protection mechanisms. This could include developing early warning systems to identify emerging patterns of rights violations, optimizing judicial resource allocation based on predictive analytics, and creating digital platforms to facilitate access to justice and monitoring of judicial decision implementation. Ultimately, the goal should be not only to protect the right to health through judicial interventions but also to catalyze systemic transformations that reduce the need for litigation by addressing the root causes of health inequities.

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