

Procedural Law and Sustainable Development: An Analysis of the Colombian Reality¹

El Derecho Procesal y el Desarrollo Sostenible: un análisis de la realidad colombiana

Direito Processual e Desenvolvimento Sustentável: uma Análise da Realidade Colombiana

<https://doi.org/10.15332/25005375.9654>

[Artículos]

Recibido: 30/03/2023

Aceptado: 30/05/2023

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Citar como:

Aguirre Jiménez, G. A., & González González, A. Y. (2023). El Derecho Procesal y el Desarrollo Sostenible: un análisis de la realidad colombiana. *IUSTA*, (59), 141–157. <https://doi.org/10.15332/25005375.9654>



Abstract

The present research hotbed project aims to analyze procedural law and sustainable development in the face of the challenges of the Colombian reality. It is a qualitative, descriptive study based on international, national, doctrinal, and legal databases, utilizing tools such as Scopus and Ebsco search engines and up-to-date and relevant government data to identify issues and achieve set objectives. The results reveal that a high percentage of the Colombian population suffers the consequences of an absent State that does not respond promptly to their basic needs, including equal access to justice. This creates a gap

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in the effective administration of justice and equitable conditions, hindering sustainability in the present and the near future and delaying peace, justice, and robust institutions.

Keywords: sustainability, due process, effective judicial protection, technology, biases, administration of justice.

Resumen

El presente proyecto de investigación de semillero pretende analizar el derecho procesal y el desarrollo sostenible frente a los retos de la realidad colombiana. Es una investigación cualitativa de tipo descriptiva basada en el uso de bases de datos de consulta a nivel internacional, nacional, doctrinal y jurídico con herramientas tales como buscadores en Scopus y Ebsco, así como datos de gobierno actualizados y pertinentes, que permiten identificar la problemática y responder a los objetivos trazados. Los resultados revelan que un alto porcentaje de la población colombiana sufre las consecuencias de un Estado ausente y que no responde de manera diligente a sus necesidades básicas, incluido el acceso a la justicia en condiciones de igualdad. Esto genera una brecha en la administración de justicia efectiva y en condiciones de equidad, lo que obstaculiza la sostenibilidad en el presente y en el futuro cercano y retarda la paz, la justicia y las instituciones sólidas.

Palabras clave: sostenibilidad, debido proceso, tutela judicial efectiva, tecnología, sesgos, administración de justicia.

Resumo

O presente projeto de pesquisa tem como objetivo analisar o direito processual e o desenvolvimento sustentável diante dos desafios da realidade colombiana. Trata-se de um estudo qualitativo, descritivo, baseado em bases de dados internacionais, nacionais, doutrinárias e legais, usando ferramentas como os motores de busca Scopus e Ebsco e dados governamentais atualizados e pertinentes para identificar questões e alcançar objetivos estabelecidos. Os resultados revelam que uma alta porcentagem da população colombiana sofre as consequências de um Estado ausente que não responde prontamente às suas necessidades básicas, incluindo o acesso igualitário à justiça. Isso cria uma lacuna na administração eficaz da justiça e condições equitativas, dificultando a sustentabilidade no presente e no futuro próximo, e atrasando a paz, a justiça e instituições robustas.

Palavras-chave: sustentabilidade, devido processo legal, proteção judicial eficaz, tecnologia, viés, administração da justiça.

Introduction

Under the social rule of law, Colombia is governed by the Constitution of 1991, the supreme norm that recognizes the constitutional body of law to incorporate decisions made at the international

level, especially concerning human rights, within the same hierarchy. By constitutional mandate, precedence must be given to fundamental rights and general principles of law.

One of these fundamental rights is access to justice (Constitución Política de Colombia [Const], Art. 229), which must be guaranteed to all citizens. It consists of the State's duty to accept, process, and decide on cases of individuals in fair and equitable terms, following general legal principles such as legality, efficacy, and efficiency, among others.

However, in Colombia, many people live with socioeconomic and geographical limitations. These situations create difficulties in accessing justice, and if they manage to do so, individuals must deal with slow court proceedings. These challenges hurt the effectiveness and trust in the justice system, as all these barriers hinder full participation in the system (Palomares, 2015; Valderrama, 2016)

In line with the above, the United Nations (UN), of which Colombia has been a member since the ratification of the San Francisco Charter on November 5, 1945, adopted a series of Sustainable Development Goals (SDGs) in 2015 as part of a new sustainable development agenda. These goals aim to eradicate poverty, protect the planet, and ensure prosperity for all (UN, 2015). Among these goals is number 16, which focuses on peace, justice, and strong institutions to achieve fair, peaceful, and inclusive societies.

Four years after this announcement, the world was hit by a lockdown caused by a rapidly spreading virus known as COVID-19. This prevented the normal conduct of activities that usually required appearance, such as accessing the justice system, from seeking amicable solutions through Alternative Dispute Resolution Mechanisms (ADRs) to filing legal actions in court and attending hearings.

In Colombia, access to the justice system is regulated through various legal disciplines, including procedural codes. The General Code of Procedure aimed to implement Information and Communication Technologies (ICT; Ley 1564 de 2012, Art. 103); however, it only occurred in 2020 due to the COVID-19 pandemic. This situation disrupted various activities that typically required in-person presence, including accessing the justice system and participating in judicial hearings.

To ensure the continuity of justice administration as a fundamental right, ICTs in court proceedings were implemented in the jurisdiction (Decreto 806 de 2020). This included using data messages, conducting hearings on video call platforms for recording purposes, and introducing hearings through the metaverse or virtual reality by some courts. This facilitated access to justice in major cities and municipalities with good internet coverage and access to digital devices.

This new digital trend acting as a facilitator for accessing justice primarily applies to urban areas such as capital cities. Thus, it neglects geographically remote areas and sparsely populated centers where access and other factors hinder internet connectivity. Most people living in these areas are the main victims of the armed conflict and violence that our country has been facing for over five decades. This disparity is reflected in the data from a survey conducted by the National Department of Statistics (DANE, 2022), which highlights key indicators:

Regarding the proportion of households with internet connection nationally in 2021, it was found that 60.5 % of the total national households had internet access, 70.0 % in urban centers and 28.8 % in rural dispersed areas. The department with the highest proportion of connected households was Bogotá DC, with 81.5 %, while the department with the lowest was Vichada, with 4.6 %. (DANE, 2022)

This information highlights a significant fact: the country's capital city has extensive internet coverage, compared to a population like Vichada, where internet access is minimal.

In addition to the difficulties experienced in these regions, there is a lack of education and a scarcity of economic resources to acquire digital devices such as computers, mobile phones, or other devices. These technological limitations in terms of infrastructure and training represent a significant obstacle. Unfortunately, the Indigenous peoples are the most affected by these barriers. They often must set aside their native language to adapt to this social environment (Aristizábal, 2019; Vargas Florián, 2018).

Another problem affecting justice today is the delay in court proceedings, impacting its effectiveness and people's trust in the system. This issue primarily affects sectors of the population with socioeconomic and geographical limitations, encountering barriers to their full participation in the justice system.

The crux of the problem lies in the unsustainability of procedural law in Colombia, manifested through delays in court proceedings, inequality in access to justice, and technological limitations. This issue leads us to ask: What are the challenges to ensure sustainable development in the administration of justice in Colombia?

To answer this question, this research aims to identify the challenges that Colombia must address to ensure sustainable development in the administration of justice through three specific objectives, namely:

1. to examine the gaps and inequalities in access to justice, considering socioeconomic and geographical factors, and assess their impact on the equity of the judicial system.
2. to evaluate initiatives Colombia has implemented to improve access to justice and reduce the gap between urban and rural populations.
3. to propose recommendations and measures to improve procedural law's sustainability in Colombia, such as integrating emerging technologies and promoting equitable and efficient justice.

Research on the sustainability of procedural law in Colombia is of fundamental importance due to the contemporary challenges the judicial system faces. Slow court proceedings, inequality in access to justice, and technological limitations are problems that negatively impact the system's effectiveness, efficiency, and equity.

This research aims to enrich our understanding of the topic, identify the causes and consequences of these challenges, and propose solutions and recommendations to enhance the quality of justice and promote a sustainable judicial system in Colombia. Its origin is the entrenched inequality affecting a portion of the Colombian population residing in geographically remote areas where establishing communication and service delivery mechanisms for judicial services is difficult, particularly in rural and ethnic populations. This information is confirmed by data provided by the DANE, highlighting the significant population residing in rural areas that may face challenges in accessing justice.

As of 2022, 23.7% of Colombia's population, totaling 12.2 million people, resides in rural areas. Additionally, the black, Afro-Colombian, Raizal, and Palenquera populations amounted to 4,671,160 individuals in 2018, constituting 9.34% of the total national population. According to the National Census of Population and Housing conducted by the same entity, the Indigenous population in the country was 1,905,617 in 2018 (DANE, 2022).

The lack of agility and efficiency in court proceedings, coupled with limited access to digital tools and resources, negatively impacts the quality of justice. In this context, it is essential to analyze the relationship between procedural law and sustainable development in Colombia. The objective is to identify solutions addressing these challenges and promoting an equitable, efficient, and accessible justice system for all citizens.

This research employs a qualitative and descriptive approach to identify facts, phenomena, individuals, and systems shaping these behaviors. It is descriptive, seeking to understand situations, customs, and notable attitudes through precise descriptions of actions, objects, processes, and people.

The focal point of this research is ethnic and rural communities facing barriers to accessing justice due to racial issues. The study will concentrate on communities where the State's presence is minimal or nonexistent, located in remote rural areas or areas with difficult access due to poor road infrastructure and the country's topography. These regions have limited economic resources and lack access to digital tools and resources, such as internet service, leading to significant barriers to accessing justice.

The study involves consulting databases and information sources from various institutions responsible for administering justice. It aims to collect data on judicial cases linked to challenges in accessing justice in specific communities and departments. The specific objectives outlined will be pursued throughout the data collection instrument development.

Documentary sources available on websites such as VLex and journals indexed in Scielo, Scopus, and government databases, have been utilized to gather information.

Gaps and Inequalities in Access to Justice and Their Impact on the Equity of the Judicial System

The justice system is one of the fundamental pillars of any democratic society, providing a framework to ensure fairness and protect fundamental rights. However, a persistent problem that threatens the effectiveness and legitimacy of this institution is the gaps and inequalities in access to justice, which reflect broader socioeconomic, geographic, and racial issues. Their existence jeopardizes the principles of justice and democracy, preventing specific individuals and communities from fully exercising and protecting their rights.

Therefore, it is essential to address these inequalities to create a truly fair and accessible justice system for all. But how do gaps and inequalities in access to justice challenge the effectiveness and equity of contemporary judicial systems, and what can be done to remedy this situation? The international sources consulted respond to this question with the following hypothesis: Gaps and inequalities in access to justice reflect broader socioeconomic inequalities and a factor that perpetuates them. A judicial system that genuinely promotes justice requires measures that ensure accessibility, efficiency, and equity at all levels of the judicial system.

Four arguments of significant relevance supporting this hypothesis have been identified. The first is the intersection between poverty and access to justice; socioeconomic inequalities and access to justice are strongly interconnected. Individuals and low-income families often face significant obstacles to obtaining adequate legal representation and, therefore, to asserting their rights in the judicial system.

A study by Menendez et al. (2019) for the Brennan Center for Justice at New York University emphasizes that “financial barriers severely limit access to justice for low-income Americans. The costs of legal services, even for basic legal matters, can be prohibitive for people living in poverty.”

Similarly, Jahangeer (2019), in her report for the American Bar Association, asserts that the lack of legal assistance for low-income individuals can exacerbate poverty and other social issues, as people often lack the legal help they need to address housing, health, and education-related problems. These financial barriers can also be deterrents for low-income individuals who may feel intimidated or discouraged by the excessive costs of legal services, refraining them from seeking legal assistance even when their rights have been violated. This only perpetuates a cycle of poverty and legal exclusion. Therefore, to ensure equity in access to justice, it is essential to address these financial barriers and create judicial systems that are accessible to all, regardless of their ability to pay.

In addition to economic barriers, geographic and racial inequalities also play a significant role in access to justice. People living in rural or remote areas often have limited access to legal services due to poor judicial infrastructure and a scarcity of legal professionals. Furthermore, minority racial and ethnic groups may face additional barriers in seeking justice due to discrimination, bias, and lack of representation.

Global information on access to justice from the World Justice Project, in its report by Ponce (2019), highlighted that rural communities often lack sufficient lawyers and judicial services, limiting access to justice for their residents. This report also noted that this lack of access can diminish the ability to defend legal rights and obtain legal redress.

On the other hand, racial discrimination and bias can also limit access to justice for minority racial and ethnic groups. According to a report by the National Association for the Advancement of Colored People (NAACP, 2021), people of color often face significant obstacles in the judicial system, including racial discrimination and bias, which can restrict their ability to obtain justice. In an equitable judicial system, it is vital to address these geographic and racial inequalities and work toward building a judicial system that is inclusive.

A third argument revolves around the limitations of current judicial systems, which often reflect inefficiencies and complicated bureaucratic procedures, acting as barriers to equitable access to justice. Legal procedures can be slow and costly, and the complexity of the judicial system can be confusing and daunting for those unfamiliar with it.

Frigo's (2021) report for the International Commission of Jurists points out that lengthy and costly legal procedures and the legal system's complexity can hinder access to justice. Similarly, Velez (2023) reiterates this statement: Access to justice is hindered by the inefficiency and complexity of judicial systems, which can be particularly discouraging for people lacking resources and legal knowledge.

These systemic barriers can have a powerful impact on low-income individuals and minority groups, who often lack the necessary resources and knowledge to navigate these complicated systems. It is evident that reforming the judicial system, including efforts to increase efficiency and reduce complexity, is essential to ensuring access to justice for all.

The fourth argument supporting the identified hypothesis is the gender gap in access to justice; women, particularly, can face unique obstacles in seeking justice due to sociocultural, economic, and structural factors. The World Health Organization (WHO, 2022) states that women often encounter specific barriers to accessing justice, including gender discrimination, violence, lack of economic resources, and lack of legal information.

Furthermore, the United Nations Development Fund for Women (UNIFEM, 2023) emphasizes that cultural and social norms can sometimes deter women from seeking justice. When they do, they may face discrimination and prejudice. This gender bias in access to justice not only denies women their fundamental rights but also undermines efforts to achieve gender equality. Measures that address gender barriers to access justice must be implemented.

In Colombia, this hypothesis and these arguments are evident in contexts where citizens must face significant challenges to access justice and participate practically in the judicial system due to socioeconomic and geographical barriers that restrict the full enjoyment of their rights. This situation has persisted over the years, mainly due to the State's absence in these remote areas.

Low socioeconomic levels and difficulties in accessing legal services in remote areas deeply impact residents' ability to defend their rights in legal situations. Those residing in cities with more economic resources find it easier to access justice and afford legal costs, unlike those lacking resources and unable to pay for legal services. As a result, there is a negative perception of judicial systems, fostering mistrust in institutions and discouraging citizens from seeking legal solutions.

This is how we find proposals like the Brasilia Rules, which originated from valuable work from the Ibero-American Judicial Summit. These rules aimed to create a set of ethical standards for both States and various public officials involved in the administration of justice. They aimed to ensure vulnerable groups have genuine and equitable access to the justice system. According to the study conducted by Robledo Silva (2020), the Brasilia Rules do not only consider socioeconomic and geographic factors as the sole circumstances hindering access to justice. According to them, there are also other factors such as "age, disability, belonging to Indigenous communities or minorities, victimization, migration and internal displacement, poverty, gender, and deprivation of liberty." Although these aspects are fundamental, this work will only focus on socioeconomic and geographic factors and marginalized communities.

Regarding socioeconomic factors, the Organization of American States (UN, 2019) points out that: "Poverty is a determining factor for social exclusion and inequality in social, economic, and cultural areas. This contrast is reflected not only in income differences but also in the absence of work options and the inability to exercise certain rights."

On the other hand, Quintero Salazar (2016) considers the concept of "poverty" as limited and ambiguous, suggesting that only the extremely poor can access state assistance. Therefore, it is proposed to broaden the criteria to allow more people without basic needs met to receive state assistance. The author also proposes that the State allocate more resources to provide legal assistance since legal expenses can jeopardize the rights of those who cannot afford them. Similarly, legal aid services are scarce in remote areas, so the proposal includes creating a public defender's office to ensure access to justice.

Given the reality of our country, a large part of the Colombian population faces various obstacles to exercising their right to access justice since the principles of speed and efficiency are not applied. This is even more challenging for impoverished people, as they often lack economic resources and access to education. Many of the population in these remote areas cannot read or write, making it impossible for them to resort to the judicial mechanisms established to claim their violated rights.

Additionally, Quintero Salazar (2016) mentions that those who manage to access the justice system find themselves spending all their economic resources, affecting their ability to fulfill other basic needs. Therefore, many choose not to resort to justice. This problem regarding justice and its limited reach to remote and vulnerable communities is concerning because the State must guarantee the protection of their rights by providing judicial, extrajudicial, or administrative systems that are efficient, impartial, and accessible to these remote and unprotected areas.

It is of little use that the Colombian State outlines fundamental rights in its Constitution that every citizen should enjoy when those living in these remote areas lack the economic resources or access to digital resources to effectively, quickly, and timely access the justice system for their protection (Quintero Salazar, 2016).

Society has witnessed significant technological advancements, including artificial intelligence in legal proceedings. However, it is concerning to see how, in remote areas, the population with limited resources does not have equitable access to options that facilitate using these technologies offered by the justice system. Since this is a fundamental right and part of the State's mission to protect its citizens, practical projects must be implemented to overcome these socioeconomic and geographic barriers.

Nonetheless, communities living in these remote areas have social leaders who seek to safeguard the rights of their community and bridge these gaps of inequality and neglect by the State. Unfortunately, they face threats against their lives and those of their families. A report from the United Nations High Commissioner for Human Rights (OHCHR, 2019) documented 133 cases of homicides of human rights defenders. Due to pandemic restrictions, only 53 of these cases could be verified, and 80 others are still under investigation. Among the documented victims, 9 % were women, 21 % were Indigenous, and 4 % were Afro descendants.

Additionally, the OHCHR (2019) report warns about areas with scarce presence of state institutions where leaders face higher risks of homicide. These critical areas are mainly located in Cauca, Chocó, Norte de Santander, Putumayo, and Valle del Cauca, where 72 % of the cases of leader homicides occurred. In these areas, violence has increased significantly, making the community to distance itself from both politics and justice institutions.

To change these patterns of impunity and violence, it is essential to ensure that the population can access justice through technological means, in addition to increased state presence. As indicated in the OHCHR (2019) report, the Attorney General's Office is limited in rural areas of various departments, affecting access to justice due to the lack of police personnel and delays in processing technical-expert evidence.

National, departmental, and municipal entities must collaborate closely with communities to implement social and community actions to protect their rights effectively. Considering the framework of the Economic Commission for Latin America and the Caribbean (CEPAL, 2016), Colombia is considered one of the countries with the highest inequality. The pandemic could exacerbate this disparity, mainly affecting women in the informal labor sector.

According to Icaza et al. (2011), electoral participation is a crucial issue that significantly impacts fundamental principles of political equality and representation. When marginalized groups, due to socioeconomic, gender, or ethnic reasons, abstain from exercising their right to vote, elected officials can lose connection with the interests and needs of these excluded populations. This may

result in ineffective attention to fundamental aspects such as access to essential services (the Internet and legal advice) and public policies focused on reducing poverty and inequality.

Therefore, equitable electoral participation must be promoted to ensure adequate representation that encompasses and addresses the needs of all communities. This can contribute to a fairer society while also preventing corruption, an additional factor negatively affecting the rights of communities in many regions of the country.

Despite experiencing macroeconomic recovery in recent years, a considerable number of people are still facing challenges such as unemployment, social exclusion, and lack of access to essential services, maintaining inequality both in everyday practice and in the legal sphere. This reality should pose a challenge for the government. According to the proposal of the OAS (2011), a collective reflection by the State on how to address these problems more effectively is indispensable. Before formulating any social policies or action plans, States have the responsibility to determine which communities are most affected in terms of exclusion or discrimination in all social, political, and economic aspects. This enables them to implement specific measures in their plans.

Before designing socioeconomic public policies, a fundamental principle is to understand and comprehend the populations to which these policies will be targeted through a socioeconomic study. The issues each of these populations faces vary; therefore, their geographical location and specific needs that must be addressed should be considered. In Colombia, according to Portafolio (2023), 15 % of the Colombian population lives in extreme poverty, preventing it from accessing essential services to live with dignity and develop fully. These individuals often experience social exclusion and are marginalized from power and political processes, denying them their right to participate in public affairs effectively.

Current Initiatives in Colombia Aimed at Improving Access to Justice

The research reveals two proposals by the government to address these issues. The first is implementing an action plan for Local and Rural Justice Models in Colombia, which aims to promote adequate access to justice, especially in rural and remote areas. It focuses on enhancing the legitimacy of justice, bringing it closer to communities and citizens, preventing and managing conflicts peacefully, and strengthening the social fabric and the culture of legality. It is based on principles such as people-centered justice and empowering communities. To achieve this, conflict resolution methods will be implemented, formal justice services will be strengthened, and technical assistance will be provided to ethnic communities (Ministerio de Justicia y del Derecho, 2020).

During 2018–2022, the plan was to implement local and rural justice models in 150 municipalities belonging to the Territorially Focused Development Programs (PDET, for its acronym in Spanish). These municipalities are among the 845 with the lowest concentration of justice services nationwide,

as they are not part of the city system or the main district judicial centers. This action aims to fulfill the transformational goal of the current Development Plan “Pact for Colombia, Pact for Equity” (Función pública, 2019).

The second initiative involves strengthening Local Administrative Boards (JALs, for its acronym in Spanish), which represent citizens in Colombia and seek to address community needs. This social policy includes distribution, protection, and justice. It is justified by the belief that promoting associativity and trust would strengthen community networks. As stated by Cabrera Jiménez and García-Castiblanco (2021), there is evidence that contrary to expectations in low-income areas, there is a social capital deficit. One of the factors causing this deficit is low trust and disinterest, making it more challenging to implement and strengthen these public policies.

From the perspective of the National Government, public policies are intended to be implemented with each change of administration. However, this poses a challenge for a leader in a 4-year term to accomplish even 50 % of the objectives outlined in government projects. A comparative analysis of public policies implemented in the country reveals significant differences among Colombia’s cities, municipalities, and departments. For example, Colombia’s public policy aims to impact its national development plan 2022–2026 (Departamento Nacional de Planeación [DNP], 2023) with “five major transformations: land use planning around water, human security and social justice, the human right to food, productive transformation, internationalization, climate action, and regional convergence” (Universidad Externado de Colombia, 2023).

These policies aim to reduce the social gap in all aspects of the country; however, how much do these policies decrease the social gap between urban and rural areas? Upon analyzing the current government policies, we can see that the economic, political, and social development of regions translates into the investment of resources in infrastructure, education, and the implementation of ICT, with education being the second most important policy to reduce gaps between urban and rural areas.

Furthermore, the current government has created a plan called “Colombia: A Global Powerhouse for Life,” which involves the participation of more than 6,500 proposals received from citizens and embraced by the National Government within its development plan. This allows unprecedented participation from the most vulnerable areas of the country.

This strategy, referred to by the National Government as “regional dialogues” (DNP, 2023), has established over 51 working groups to address the most pressing needs of the regions. Through these strategies, participation and reduction of social gaps in different communities are sought, leading to improved access to justice and social equity in the country.

For the National Government, one of the most important strategies that will help achieve its goal is the #The People’s Plan, which focuses on access, usage, and utilization of data to drive social transformation. It aims to prioritize access to justice as a fundamental right to achieve citizens’ well-being, dignity, and effective enjoyment of their rights.

In this context, the National Government has the premise of providing access to justice as a fundamental pivot for the development of communities. The goal is to reduce the social gap in access to justice in different regions and provide practical solutions to various social problems and conflicts through MACS (acronym in Spanish for One-stop Service Centers), with better accessibility throughout the national territory. This public policy aims to reduce access to justice gaps, giving greater balance to historically forgotten rural areas, almost depriving them of their right to social justice for all; essentially, it aims to expand the administration of justice through ICT tools, contributing to the right to justice itself.

The national government sets goals under the “break to extreme poverty” strategy, which intends to reduce extreme poverty to a single digit, currently standing at 12.2 %, and bring it down to 9.6 % with the national development plan. This would allow greater investment through the annual budget law for the coming years, ensuring social investment in various rural areas of the country on different economic and social fronts to reach the most vulnerable population.

Within the strategic framework called “Human Security and Social Justice,” management scope 02 aims to double internet access, increasing from 38.3 million internet connections in 2021 to 71.4 million throughout the development plan. This would allow optimal access to the most remote communities in regions and cities, translating into closer proximity and access to justice in the country’s most remote areas.

It is estimated that by 2050, the urban population in Colombia will exceed 54 million inhabitants, undoubtedly a substantial increase in access to all essential services, becoming a social and economic challenge for the country as the government’s policies develop. Given this projection, a question arises: How can total technological coverage and access to information combined with access to justice be achieved?

Among the current initiatives to improve access to justice, we find the Sectoral Plan for Judicial Development 2023–2026 of the Judicial Branch/Superior Council of the Judiciary, whose motto is “toward a reliable, digital, and inclusive justice.” This plan shows that the strategic objectives are aligned with Law 270/1996. This norm emphasizes principles in the administration of justice and protects real access to justice based on a balance in the judicial system to guarantee and protect the fundamental rights of the population, thus eliminating delays in proceedings and judicial congestion.

This document is oriented toward five strategic objectives. They aim to materialize actions and activities to enable the nationwide implementation of a more reliable, digital, and inclusive justice system where citizens can genuinely have access to the administration of justice without obstacles, following legal and constitutional principles. The planned investment projection for each objective from 2024 to 2026 is presented below.

According to the information in the development plan of the Judicial Branch (Rama Judicial, 2023), the first objective involves expanding access to justice nationwide through the consolidation of

optimal physical infrastructure, and the second objective is related to digital services and information technology. The projected investment for these is COP 2,322,071,000. The third objective proposes to restore legal certainty by implementing the transparency principle through accountability processes, with a planned investment of COP 69,930,000. The fourth objective focuses on strengthening human resources, and the fifth is strategic planning, with a projected investment of COP 176,676,000. These investments are planned for 2024, 2025, and 2026

Another initiative by the Judicial Branch was consolidated on January 11, 2023. Through collaboration with the Ministry of Finance and Public Credit, the judicial offices were strengthened, creating 1,700 positions (Rama Judicial, 2023).

Recommendations

Based on the results presented from the review of doctrine, government foundations, and international perspectives on the social, economic, and cultural gaps affecting areas such as justice administration, we make the following recommendations:

In Colombia, addressing sustainability in the realm of justice is challenging, considering the definition by the Real Academia Española (RAE, 2023), where “sustainability implies the ability to maintain something over time and space without causing serious harm to the environment.” The country’s precarious state of justice administration is highlighted by numerous gaps that underline the urgent need for increased state investment in this institution. This includes expanding its reach to more remote areas through ICTs, modernizing its digital resources, and implementing public policies that ensure equitable access to all Colombian citizens.

A comprehensive analysis of legislation in contrast to the country’s reality must be conducted, as it is essential to assess the effectiveness and equity of justice administration. Several aspects need consideration in this analysis:

Jurisdiction and competence: The problem arises from the lack of territorial coverage, limited judges’ competencies, and scarce resources in regional judicial bodies, often leading to cases being referred from one office to another without effective resolution. For instance, judges frequently do not take part in cases affecting social coexistence in conflict-affected areas, with adverse consequences. Therefore, legislation must align with society’s changing needs, evaluating whether these definitions are still relevant to ensure accessible and efficient justice and considering alternatives such as community justice solutions.

Access to justice: A fundamental objective is to bring the justice system of public servants closer to citizens. This pertains to geographic proximity and understanding and adapting legal processes to people’s realities. Limited physical access to courts or the need for long journeys to reach them can be obstacles for many citizens. Hence, evaluating whether the current jurisdiction structure facilitates or hinders access to justice is crucial.

Equity and accessibility: These are fundamental to a sustainable and efficient justice system, ensuring that everyone has equal opportunities to access justice and adapting legal processes and procedures to address the specific needs of different groups, such as communities speaking other languages or individuals with disabilities. Designing a plan that recognizes our country's linguistic diversity and addresses each population's specific needs is also required.

In summary, a profound analysis of legislation concerning justice administration in a country must consider the practical applicability of laws and their impact on society. This is essential for building a genuinely sustainable and efficient justice system that fulfills its goal of serving all citizens fairly and equitably.

Conclusions

The gaps and inequalities in access to justice pose a significant threat to the principles of equity and justice in our contemporary societies. To combat this problem, it is vital to address the socioeconomic and racial inequalities contributing to these gaps and reform judicial systems to ensure their accessibility and efficiency. Only through these measures can we move toward a justice system that is genuinely accessible to everyone, regardless of their socioeconomic status, geographical location, or race.

The State must implement concrete and practical measures to ensure that everyone, regardless of their geographical location or economic condition, can exercise their rights and obtain justice when needed. Only through full and equitable access to justice can we progress toward a more just and equal society where all citizens are protected and respected in their fundamental rights.

Numerous studies conducted by entities responsible for measuring and quantifying social, economic, and access differences have shown a wide gap since the 1950s and a constant migration in search of opportunities from rural to urban areas. The lack of accessibility to information and entrepreneurial opportunities is one of the leading causes of migration.

The development plan intends to reduce these indices of inequality and extreme poverty that have resulted in the delegitimization and lack of trust in state institutions and provide citizens with reliable and fair access to their rights and freedoms.

Referencias

- Aristizábal, J. F. (2019). La teoría pura del derecho y la exclusión de la sociología. *Revista IUSTA*, 1(50), 121–143. <https://doi.org/10.15332/1900-0448.2019.0050.05>
- Cabrera Jiménez, M. F., & García-Castiblanco, C. P. (2021). Social Capital and Vulnerable Population: An Analysis from Local Government Entities. *Revista Venezolana De Gerencia*, 26(5), 370–387. <https://doi.org/10.52080/rvgluz.26.e5.24>

- Carrillo, Y., & Bechara, A. (2019). Discretionary Judge and Guarantor: Litigation Disposal Powers in the General Code of Procedure. *JURÍDICAS CUC*, 15(1), 229–262.
<http://dx.doi.org/10.17981/juridcuc.15.1.2019.09>
- Chávez Yomona, M., Masías Benavides Román, A., & Rivera Fernández, D. H. (2022). Access to Justice in the Face of Digital Connectivity Challenges. *Revista de Filosofía*, 39(Special), 455–471.
<https://doi.org/10.5281/zenodo.6468773>
- Colombia. Political Constitution of Colombia [CP]. (1991).
http://www.secretariassenado.gov.co/senado/basedoc/constitucion_politica_1991.html
- Colombia. Political Constitution of Colombia [CP]. (1991). Article 229 [Title VIII].
http://www.secretariassenado.gov.co/senado/basedoc/constitucion_politica_1991_pr007.html#229
- Colombia. Congress of the Republic of Colombia. (July 12, 2012). Article 103. General Code of Procedure [Law 1564 of 2012]. DO: 52.522.
http://www.secretariassenado.gov.co/senado/basedoc/ley_1564_2012_pr002.html#103
- Colombia. Congress of the Republic of Colombia. (May 25, 2019). By which the National Development Plan 2018 - 2022 "Pact for Colombia, Pact for Equity" is issued. [Law 1955, 2019]. Retrieved from
<https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=93970>
- Colombia. Congress of the Republic of Colombia. (May 7, 1996). Statutory Law of The Administration of Justice. [Law 270, 1996]. Retrieved from
http://www.secretariassenado.gov.co/senado/basedoc/ley_0270_1996.html
- Colombia. Presidency of the Republic of Colombia. (June 4, 2020). Decree 806 of 2020: Measures to Implement Information and Communication Technologies in Judicial Proceedings. DO: 51.335.
http://www.secretariassenado.gov.co/senado/basedoc/decreto_0806_2020.html
- Colombia. Judicial Branch. Superior Council of the Judiciary. (2022). Sectoral Plan of Judicial Development 2023-2026. "Towards a Reliable, Digital, and Inclusive Justice."
<https://escuelajudicial.ramajudicial.gov.co/sites/default/files/Plan%20Sectorial%202022-2026%20V15%20%282%29.pdf>
- Departamento Administrativo Nacional de Estadística [DANE]. (2022). *Press Release: Information and Communication Technologies in Households Survey (ENTIC Homes) 2021, 1-2*.
https://www.dane.gov.co/files/investigaciones/boletines/entic/comunicado_entic_hogares_2021.pdf
- Departamento Administrativo Nacional de Estadística [DANE]. (2022). *Situation of Rural Women from Official Statistics. Statistical Notes Series, 2-4*. <https://www.dane.gov.co/files/investigaciones/notas-estadisticas/oct-2022-nota-estadistica-mujer-rural-presentacion.pdf>
- Departamento Nacional de Planeación [DNP]. (2023a). *ABC of Dialogues*. <http://www.dnp.gov.co>
- Departamento Nacional de Planeación [DNP]. (2023b). National Development Plan 2022-2026.
<https://www.dnp.gov.co/plan-nacional-desarrollo/pnd-2022-2026>
- Díaz, J. (2020). Reflections on the Principles of Promptness, Impartiality, and Efficiency in the General Code of Procedure. *Jurídicas CUC*, 16(1), 407–444. <http://dx.doi.org/10.17981/juridcuc.16.1.2020.18>
- Duque Ayala, C. (2012). The Mixed System of Administrative Litigation and Its Technological Component: Comparative Analysis. *Verba Luris*, (28), 69–92.
<https://revistas.unilibre.edu.co/index.php/verbaiuris/article/view/2203>
- Externado University of Colombia. (2023). National Development Plan: Weaknesses and Strengths. Retrieved from
<https://www.uexternado.edu.co/agencia-de-noticias/plan-nacional-de-desarrollo-debilidades-y-fortaleza/>.
- Frigo, M. (2021). *International Commission of Jurists. Colombia: ICJ and IACHR Alert the Human Rights Council about Widespread Human Rights Violations During Protests*. <https://www.icj.org/colombia-la-cij-y-la-cj-alertan-al-consejo-de-derechos-humanos-acerca-de-las-violaciones-generalizadas-de-derechos-humanos-cometidas-durante-las-protestas-2/>

- Galvis Vega, G., Alfonso Acosta, G., Rodríguez Peñaloza, A., Cabeza Zambrano, C., Olarte Mojica, L., Garzón Fierro, V., Chaves Rodríguez, P., & Trespacios Rojas, I. (2022). *Artificial Intelligence in the Prediction of Judicial Decisions as a Mixed Welfare Model: Between Codification and Equitable Justice*.
- Gómez Osorio, Ángela M., Herrera Mejía, J. A., Castañeda Ruiz, H. N., & Muñoz Zapata, M. A. (2023). Strategies for Community Participation and Recognition in Territorial Interventions. *Estudios Socio-Jurídicos*, 25(2). <https://doi.org/10.12804/revistas.urosario.edu.co/sociojuridicos/a.12841>
- High Commissioner for Human Rights [OHCHR]. (2019). *Human Rights Situation in Colombia*. <https://www.undocs.org/en/A/HRC/40/3/Add.3>
- Icaza, E., Colledani, N., & Gonzalez, I. (2011). *Inequality and Social Inclusion in the Americas. Essay 14* (2nd ed.). Organization of American States. <https://www.oas.org/docs/desigualdad/libro-desigualdad.pdf>
- Jahangeer, K. (2019). *Fees and Fines: The Criminalization of Poverty*. American Bar Association. https://www.americanbar.org/groups/government_public/publications/public_lawyer_articles/fees-fines/
- Menendez, M., Crowley, M. F., Eisen, L.-B., & Atchison, N. (2019). *The Steep Costs of Criminal Justice Fees and Fines: A Fiscal Analysis of Three States and Ten Counties*. Brennan Center for Justice at New York University School of Law. https://www.brennancenter.org/sites/default/files/2019-11/Report_Criminal_Justice_Fees_Fines.pdf
- Ministerio de Justicia y del Derecho. (2020). *Models of Local and Rural Justice: National Government's Bet to Ensure Relevant and Timely Justice in PDET Municipalities*. <https://www.minjusticia.gov.co/Sala-de-prensa/Paginas/Modelos-de-Justicia-Local-y-Rural-la-apuesta-del-Gobierno-Nacional-para-garantizar-una-justicia-pertinente-y-oportuna.aspx>
- National Association for the Advancement of Colored People [NAACP]. (2021). *Race and Justice*. <https://naacp.org/issues/race-justice>
- Ortega Ruiz, L. G. (2023). Policies and Guidelines for the Implementation of Clear and Simple Legal Language. *Novum Jus*, 17(1), 99–115. <https://doi.org/10.14718/NovumJus.2023.17.1.4>
- Palomares, J. (2015). El carácter vinculante de la jurisprudencia constitucional en el derecho alemán, en *Revista Via Inveniendi et Iudicandi*, 10(2), 29–56. revistas.usantotomas.edu.co/index.php/viei/article/view/2551/2483
- Pan American Health Organization [PAHO]. (2022). *Violence against Women*. <https://www.paho.org/es/temas/violencia-contra-mujer#:~:text=La%20violencia%20contra%20la%20mujer%20%2Despecialmente%20la%20ejercida%20por%20su,y%20reproductiva%20de%20las%20mujeres>
- Ponce, A. (2019). The Price of Justice: The High Cost of “Free.” Global Insights on Access to Justice 2019. World Justice Project. <https://worldjusticeproject.org/sites/default/files/documents/WJP-A2J-2019.pdf>.
- Portafolio. (2023, February 25). *15% of the Colombian Population Lives in Extreme Poverty: ECLAC*. <https://www.portafolio.co/economia/finanzas/colombia-es-uno-de-los-paises-con-mayor-pobreza-extrema-en-latinoamerica-579000>
- Quintero Salazar, L. (2016). Legal Controversies in Light of Poverty Relief in Colombia. Real and Effective Access to Justice? *Revista de derecho público*, (36). <https://dx.doi.org/10.15425/redepub.36.2016.09>
- Rama Judicial. (2023). *Superior Council of the Judiciary Strengthens Judicial Offices in the Country with the Creation of More Than 1,700 Positions*. <https://www.ramajudicial.gov.co/web/consejo-superior-de-la-judicatura/-/consejo-superior-de-la-judicatura-fortalece-despachos-judiciales-en-el-pais-con-la-creacion-de-mas-de-1-700-cargos>
- Restrepo-Medina, M. A. (2010). Regional Study of Congestion in Administrative Jurisdiction. *Estudios Socio-Jurídicos*, 12(1), 263–283. <https://revistas.urosario.edu.co/index.php/sociojuridicos/article/view/1192>
- Restrepo Tamayo, J. F., & Steven Gómez Agudelo, D. (2020). Digital Connectivity as a Fundamental Right in Colombia. *Law, State and Telecommunications Review*, 12(1), 113–136. <https://doi.org/10.26512/lstr.v12i1.31161>

- Robledo Silva, P. (2020). The Rules of Brasilia in Colombia. *Revista Llapanchikpaq: Justice*, 1(1), 107–140. <https://doi.org/10.51197/lj.v1i1.5>
- United Nations [UN]. (2015). *Sustainable Development Goals*. <https://www.un.org/sustainabledevelopment/>
- United Nations [UN]. (2023). *United Nations Development Fund for Women (UNIFEM)*. <https://www.refworld.org.es/publisher/UNIFEM.html>
- United Nations [UN] & Economic Commission for Latin America and the Caribbean [ECLAC]. (2016). *The Matrix of Social Inequality in Latin America*, 50-81. <https://repositorio.cepal.org/server/api/core/bitstreams/c52907b3-a3dc-4866-8f4c-c19491c2b83a/content>
- Universidad Externado de Colombia. (2023). *National Development Plan: Weaknesses and Strengths*. <https://www.uexternado.edu.co/agencia-de-noticias/plan-nacional-de-desarrollo-debilidades-y-fortaleza/>.
- Valderrama, I. (2016). El principio de congruencia en el proceso penal. *Revista Via inveniendi et Iudicandi*, 11(2), 159–180.
- Vargas Florián, S. M. (2018). La fuerza vinculante de la jurisprudencia del Consejo de Estado. *IUSTA*, 1(48), 119–144. <https://doi.org/10.15332/s1900-0448.2018.0048.05>
- Velez Rojas, J. (2023). *International Commission of Jurists. Colombia: Human rights defenders continue to face pressure and attacks*. <https://www.icj.org/colombia-human-rights-defenders-continue-to-face-pressure-and-attacks/>
- World Health Organization [WHO]. (2022). *Gender and Access to Justice: Addressing Barriers to Women’s Justice*. <https://www.who.int/>