





## Article

**Challenges and perspectives in health judicialization: considerations on the Phenomenon in Brazil and Colombia****Desafios e perspectivas na judicialização da saúde: considerações sobre o fenômeno no Brasil e na Colômbia****Desafíos y perspectivas en la judicialización en salud: consideraciones sobre el Fenómeno en Brasil y Colombia****Rafaela Cavalcanti Lira<sup>1</sup>**

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**Abstract**

**Objective:** The present study aims to understand how the judicialization of health develops as a global phenomenon, with particular emphasis on Latin American contexts, considering Brazil, and Colombia.

**Methodology:** A literature review methodology supported by the Preferred Reporting Items for Systematic Reviews and Meta-Analyses tool was adopted. The research was conducted using specific descriptors, and search strategies were carried out in the PubMed, MEDLINE, Lilacs, SciELO, CRD, CDSR, BVS, and BIREME databases. Articles published between 2010 and 2024 that discuss the judicialization of health, considering Portuguese, Spanish, or English languages, were selected.

**Results:** The search resulted in 455 articles, of which 18 met the inclusion criteria. The analysis of the selected articles reveals the need for balanced solutions that respect individual rights without compromising the accessibility and quality of collective healthcare. The challenges imposed by judicialization are highlighted, such as issues of equity, financial sustainability of health systems, and resource prioritization. **Conclusion:** It concludes by emphasizing the importance of a multidisciplinary approach involving legislative adjustments, improvements in health system management, health education, and the promotion of equitable public policies.

**Keywords:** Health's Judicialization; Health; Right to Health; Health Systems.

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## Resumo

**Objetivo:** O presente estudo visa a compreender como a judicialização da saúde se desenvolve como um fenômeno global, com ênfase particular nos contextos da América Latina, considerando Brasil e Colômbia. **Metodologia:** Adotou-se uma metodologia de revisão de literatura apoiada pela ferramenta Preferred Reporting Items for Systematic Reviews and Meta-Analyses. A pesquisa foi conduzida com descritores específicos e as estratégias de busca foram realizadas nas bases de dados PubMed, MEDLINE, Lilacs, SciELO, CRD, CDSR, BVS e BIREME. Foram selecionados artigos publicados entre 2010 e 2024 que discutem a judicialização da saúde, considerando os idiomas português, espanhol ou inglês. **Resultados:** A busca resultou em 455 artigos e, destes, 18 artigos atenderam aos critérios de inclusão. A análise dos artigos selecionados revela a necessidade de soluções equilibradas que respeitem os direitos individuais sem comprometer a acessibilidade e qualidade dos cuidados de saúde coletivos. São destacados os desafios impostos pela judicialização, como questões de equidade, sustentabilidade financeira dos sistemas de saúde e priorização de recursos. **Conclusão:** Conclui-se pela importância de uma abordagem multidisciplinar envolvendo ajustes legislativos, melhorias na gestão dos sistemas de saúde, educação para a saúde e a promoção de políticas públicas equitativas. **Palavras-chave:** Judicialização da Saúde; Saúde; Direito à Saúde; Sistemas de Saúde.

## Resumen

**Objetivo:** El presente estudio tiene como objetivo comprender cómo se desarrolla la judicialización de la salud como un fenómeno global, con un énfasis particular en los contextos de América Latina, considerando Brasil y Colombia. **Metodología:** Se adoptó una metodología de revisión de literatura respaldada por la herramienta Preferred Reporting Items for Systematic Reviews and Meta-Analyses. La investigación se realizó utilizando descriptores específicos y las estrategias de búsqueda se llevaron a cabo en las bases de datos PubMed, MEDLINE, Lilacs, SciELO, CRD, CDSR, BVS y BIREME. Se seleccionaron artículos publicados entre 2010 y 2024 que discuten la judicialización de la salud, considerando los idiomas portugués, español o inglés. **Resultados:** La búsqueda resultó en 455 artículos, de los cuales 18 cumplieron con los criterios de inclusión. El análisis de los artículos seleccionados revela la necesidad de soluciones equilibradas que respeten los derechos individuales sin comprometer la accesibilidad y la calidad de la atención sanitaria colectiva. Se destacan los desafíos impuestos por la judicialización, como cuestiones de equidad, sostenibilidad financiera de los sistemas de salud y priorización de recursos. **Conclusión:** Se concluye sobre la importancia de un enfoque multidisciplinario que involucre ajustes legislativos, mejoras en la gestión de los sistemas de salud, educación para la salud y la promoción de políticas públicas equitativas. **Palabras clave:** Judicialización de la Salud; Salud; Derecho a la Salud; Sistemas de Salud.

## Introduction

The judicialization of health is a global phenomenon that reflects the growing appeal to the judicial system to guarantee access to treatments, medicines and health procedures. In several countries, citizens turn to the judicial system as a means of securing basic health rights, confronting governments and insurance companies that fail to provide adequate care. This movement highlights the gaps in health systems and legislation, as well as the tension between individual needs and the capacities of public and private health systems. Among the primary causes of the judicialization of health are the lack of coverage or denial of treatments by health insurance plans, the absence of medicines in the public system, delays in emergency procedures and the search for new or experimental treatments not made available by health systems. This situation is exacerbated by the disparity between

available resources and the growing needs of an ageing population whose health conditions are becoming more complex<sup>(1)</sup>.

While judicialization can promote access to essential services for some, it also raises questions about equity, the financial sustainability of health systems and the prioritization of resources. Thus, the judicialization of health in the world challenges policymakers, health professionals and society to find balanced solutions that respect the rights of individuals without compromising the quality and accessibility of health care for the community<sup>(2)</sup>.

In Latin America, access to health is recognized as a fundamental right of citizens, an essential principle reflected in the constitutions and legal frameworks of several countries in the region. This recognition is based on the understanding that health is a basic human right, indispensable for the exercise of other rights and for the promotion of a dignified life. Countries such as Brazil and Colombia, among others, establish in their constitutional texts and specific legislation the state's commitment to the promotion<sup>(3)</sup>.

Despite these legislative and institutional advances, the reality in Latin America reveals significant disparities in access to and quality of health services, with many citizens facing economic, geographical and social barriers that limit their access to adequate treatment. In addition, insufficient resources, corruption and inefficient management of public health systems are persistent problems that compromise the realization of the right to health<sup>(4)</sup>.

The judicialization of health in countries like Brazil and Colombia reflects a growing phenomenon in which citizens turn to the judicial system to ensure access to medical treatments, medicines and health procedures not adequately provided by public or private health systems. This recourse to the judiciary highlights both the population's awareness of health rights and the shortcomings of health systems in meeting the demands and needs of citizens<sup>(5)</sup>.

In Brazil, there is a notable prevalence of lawsuits for access to expensive medicines, treatments and surgeries against the Unified Health System (SUS) or denied by private health insurance. It stands out as a phenomenon that generates intense debates about the sustainability of the SUS, the fairness in the allocation of health resources and the importance of establishing transparent criteria for the inclusion of new technologies and medicines in the public system<sup>(6)</sup>.

In Colombia, the judicialization of health became common after the reform of the 1990s, which established health as a fundamental right. The injunction, characterized by its speed, is often used to guarantee access to health services and treatments, expanding access to health for many, but also raising questions about equity and efficiency in the distribution of health resources, as well as the impact of the judiciary on health policies<sup>(7)</sup>.

Thus, while each country has its own particularities, the judicialization of health in Latin America, in general, highlights the tension between the aspiration for a universal right to health and the practical realities of implementing this right, challenging health systems to find a balance between individual demands and collective well-being, under the surveillance and intervention of the judicial system<sup>(8)</sup>.

To effectively manage the judicialization of health, a multidisciplinary approach involving legislative adjustments, improvements in the management of health systems, health education and the promotion of equitable public policies is essential. Transparency in providing information about patients' rights and the health services available is fundamental, as is investment in health systems that prioritize prevention and primary health care<sup>(9)</sup>.

A thorough understanding of this issue and the implementation of effective strategies are essential to ensure that the right to health is a reality. Therefore, this article presents a systematic review aimed at exploring the causes and consequences of this multifaceted phenomenon, in search of a balance between individual rights to health and the sustainability of public and private health systems.

## Methodology

In this work, the researchers carried out a literature review, where, by consensus, they formulated the following guiding question for the research: “How does the phenomenon of judicialization develop in Brazil and Colombia?”.

The strategy used made it possible to locate articles that analyzed health lawsuits, claiming the right to health as a fundamental principle, established in legal form, and allowing a comparison of the judicialization of health and its possible impacts on the health systems of Latin American countries that recognize access to health as a fundamental right of citizens.

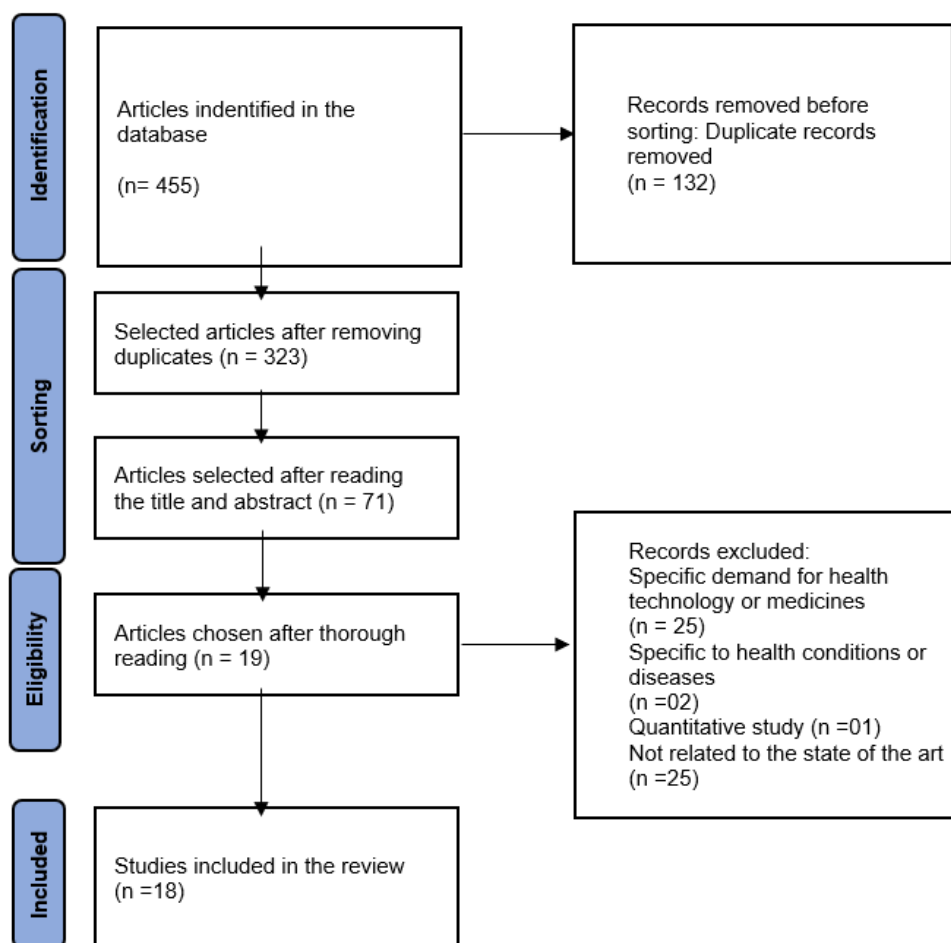
The search was carried out in the following databases: PubMed, from the Medical Literature Analysis and Retrieval System Online (MEDLINE); Latin American and Caribbean Health Sciences Literature (Lilacs); Scientific Electronic Library Online (SciELO); Center for Reviews and Dissemination, University of York (CRD); Cochrane Database of Systematic Reviews (CDSR);

Scopus and the Virtual Health Library (VHL), from the Latin American and Caribbean Center on Health Sciences Information (BIREME). The researchers independently selected the articles, which were included in the study after consensus. If there was no consensus, a third researcher was called in. Keywords were used from the list of Health Sciences Descriptors (DeCS) and Medical Subject Headings (MeSH) and their combinations, as well as the Boolean operators “OR” and “AND”, which made it possible to modulate the search for the best information. The following valid descriptors were used: “colombia” OR “brazil” AND “health” AND “judicialization” AND “judicial”.

To include the articles, the following criteria were established: 1) articles related to the judicialization of health; 2) published between 2010 and 2024; 3) available as complete scientific articles; 4) published in scientific journals indexed in the selected databases; 5) qualitative and reflective studies; 6) published in Portuguese, Spanish or English; and 7) systematic reviews.

Articles with a quantitative methodology, articles with demands for the judicialization of specific diseases, annals, short communications, monographs, dissertations, theses and bulletins were excluded. At the end of the identification process (n = 455 articles), the inclusion and exclusion criteria were selected and applied, resulting in 71 articles identified for full reading, of which 18 were included in the final analysis (Figure 1). In this study we used the Preferred Reporting Items for Systematic Reviews and Meta-Analyses (PRISMA) methodological tool

**Figure 1.** Flowchart for selecting the articles included in the review.



Source: Prepared by the author.

## Results and Discussion

This systematic review looks at the judicialization of health in Latin America, with a specific focus on the jurisdictions of Brazil and Colombia. Through the analysis of relevant literature, a rich diversity of methodological and theoretical approaches was identified that elucidate the motivations behind judicialization, as well as its consequences for health systems. The selected studies contribute to an in-depth understanding of the mechanisms through which health policy reforms and inequities in access to medical care drive individuals to seek legal redress, revealing significant implications for the formulation of public policies and the conduct of future research. Table 1 presents a description of the main characteristics of the eligible articles considering the period from 2010 to 2024.

**Table 1.** Characterization of the systematic review articles on the judicialization of health for the period from 2010 to 2024.

Nº	Author	Country	Year	Review	Title	Objective
1	Arrieta-Gómez, Ai.	Colombia	2018	Health Human Rights	Realizing the Fundamental Right to Health through Litigation: The Colombian Case	To explore how litigation can be used to realize the fundamental right to health, focusing on the Colombian case.
2	Abadía-Barrero, C. E.	Colombia	2015	Medical Anthropology Quarterly	Neoliberal Justice and the Transformation of the Moral: The Privatization of the Right to Health Care in Colombia	To explore how the privatization of the right to health reflects neoliberal justice and its moral transformation in Colombia.
3	Andia, T. S.; Lamprea, E.	Latin America	2019	International Journal for Equity in Health	Is the judicialization of health care bad for equity? A scoping review	To assess whether the judicialization of healthcare undermines health equity through a scoping review.
4	Bittencourt, G. B.	Brazil	2016	Cadernos Ibero-Americanos de Direito Sanitário	O “Estado da Arte” da produção acadêmica sobre o fenômeno da judicialização da saúde no Brasil	To analyze academic production on the judicialization of health in Brazil, identifying trends and gaps.
5	Dal Moro, C. C. Et Al.	Brazil	2019	Cadernos Ibero-Americanos de Direito Sanitário	Judicialização da saúde: propostas de racionalização	Propose measures to rationalize the judicialization of health.
6	Floriano, F. R. Et Al	Brazil	2023	Ciência & Saúde Coletiva	Strategies to approach the judicialization of health in Brazil: an evidence brief.	Identify and discuss evidence-based options for tackling the judicialization of healthcare
7	Freitas, B. C. De; Fonseca, E. P. Da; Queluz, D. De P.	Brazil	2020	Interface - Comunicação, Saúde, Educação	A Judicialização da saúde nos sistemas público e privado de saúde: uma revisão sistemática	Systematically review the judicialization of health in the public and private systems.
8	Leão, T.; Zöllner, A.	Brazil	2020	Physis: Revista de Saúde Coletiva	Judicialização e subpolítica médica	Discuss the judicialization of health in relation to medical sub-politics.
9	Ramos, E. M. B.; Sena, J. P. De; Rosário, P. T.	Brazil	2023	Cadernos Ibero-Americanos de Direito Sanitário	Direito à saúde, tratamentos experimentais e indústria farmacêutica: breves anotações	To understand the excess of judicialization in Brazil and seek some justifications that led to the state of the art.
10	Rangel De Souza, F. Et Al.	Brazil	2012	Rev. Adm. Público -Rio de Janeiro	Audiência Pública da Saúde: questões para a judicialização e para a gestão de saúde no Brasil	Address issues related to judicialization and health management in Brazil through the analysis of public hearings.
11	Ribeiro, C. De S. G. Wanderley Queiroz, C. C.	Brazil	2019	Cadernos Ibero-Americanos de Direito Sanitário	Breve panorama da judicialização da saúde no Brasil e os reflexos dos julgamentos dos recursos repetitivos pelos Tribunais Superiores	To provide an overview of the judicialization of health in Brazil and to analyze the impact of the judgments on repetitive appeals.



12	Tavares Amaral, I. Et Al.	Brazil	2021	Cadernos Ibero-Americanos de Direito Sanitário	A judicialização da saúde no Brasil sob as lentes do modelo paradigmático de Strauss e Corbin: uma análise bibliométrica	To analyze the judicialization of health
13	Vargas-Zea, N. Et Al.	Colombia	2012	Value in Health Regional Issues	Colombian Health System on its Way to Improve Allocation Efficiency—Transition from a Health Sector Reform to the Settlement of an HTA Agency	in Brazil using Strauss and Corbin's paradigmatic model.
14	Vélez, M. Et Al.	Chile, Colombia	2020	International Journal of Health Policy and Management	Understanding the Role of Values in Health Policy Decision-Making from the Perspective of Policy-Makers and Stakeholders: A Multiple-Case Embedded Study in Chile and Colombia	Describe the transition of the Colombian health system to improve the efficiency of resource allocation.
15	Ventura, C. A. Et Al.	Brazil	2014	Nursing Ethics	Alternatives for the enforcement of the right to health in Brazil	To understand the role of values in health policy decision-making in Chile and Colombia.
16	Vieira, F. S.	Brazil	2023	Revista de Saúde Pública	Judicialização e direito à saúde no Brasil: uma trajetória de encontros e desencontros.	To explore alternatives for realizing the right to health in Brazil.
17	Wang, D. W. L.	Brazil	2012	Health Economics, Policy and Law	Courts and health care rationing: the case of the Brazilian Federal Supreme Court	To discuss the impacts of judicialization on the guarantee of the right to health in Brazil and the need to re-evaluate the role of the judiciary in protecting it.
18	Zebulum, J.	Brazil	2019	Revista de Direito Sanitário	Decisões judiciais na saúde, um campo propício para a interferência de convicções pessoais de cada juiz: análise da jurisprudência de quatro tribunais de justiça	Analyze how Brazil's Supreme Court deals with the issue of rationing health care.

Source: Prepared by the author.

The studies by Leão and Zöllner<sup>(10)</sup>, Rangel de Souza et al.<sup>(11)</sup> and Ventura et al.<sup>(12)</sup> provide a detailed analysis of the consequences of judicialization in health systems, revealing how this practice increases operating costs and puts pressure on already scarce resources. This situation causes an inefficient allocation of resources, which are diverted from preventive services and programs to comply with court decisions, compromising the system's ability to equitably meet the health needs of the wider population. In addition, the need to adhere to judicial decisions causes health systems to prioritize individual cases, which can result in an unequal distribution of health services and favor those who have access to the judicial system, to the detriment of a collective and preventive approach. Additional studies, such as the one by Biehl et al.<sup>(13)</sup>, corroborate these findings, highlighting that judicialization often results in allocations that favour high-cost treatments, often benefiting a minority to the detriment of more comprehensive public health policies.

Judicialization can also create barriers to equitable access to healthcare, where patients without the resources or knowledge to navigate the legal system can be left without essential treatments. This discrepancy creates a divided health system, where access is influenced by the ability to litigate, undermining the efficiency and equity of the system. This dynamic underscores the urgent need for integrated reforms in the legal and healthcare system to reduce the negative effects of judicialization, ensuring that all citizens have fair and efficient access to necessary healthcare without relying on lawsuits. Ferraz<sup>(14)</sup> and Wang<sup>(15)</sup> also point out that judicialization often benefits patients with greater mobilization capacity and legal knowledge, creating an unequal environment in terms of access to healthcare.

In addition, research by Andia and Lamprea<sup>(16)</sup> and Arrieta-Gómez<sup>(17)</sup> expands the discussion on the judicialization of health by examining its broad implications for equity in access to healthcare. These studies point to the contradictory dynamics of judicialization, which, on the one hand, can promote access to essential treatments for individuals who would otherwise not have their needs met, but, on the other hand, can also create inequalities by privileging those who have the resources to access the judicial system. The authors emphasize the importance of a critical examination of the impacts of this practice on health policies and the allocation of resources. They point out that judicialization can lead to an inefficient allocation of resources that could be better distributed through more comprehensive and equitable health policies. The research by Vargas-Peláez et al.<sup>(18)</sup> also suggests that judicialization can divert resources from preventive and essential programs, compromising the overall effectiveness of the health system.

In Brazil, the studies by Bittencourt<sup>(18)</sup>, Dal Moro et al.<sup>(20)</sup> and Freitas et al.<sup>(21)</sup> deepen the understanding of the complexities and vast implications of the judicialization of health for the Unified Health System (SUS). These contributions highlight how judicialization can exacerbate pre-existing challenges in the health system, overloading it with lawsuits that often involve high-cost treatments and advanced technologies that are not widely available. The authors discuss the urgent need to develop clear criteria and effective regulations for the incorporation of new technologies and medicines into the public system. This process is fundamental in seeking a balance between guaranteeing equitable and comprehensive access to health and at the same time preserving the financial and operational sustainability of the SUS. Vieira and Zucchi<sup>(22)</sup> also emphasize the need for clear policies for the inclusion of new treatments in the SUS, pointing out that the lack of well-defined criteria can lead to judicial decisions that destabilize the management of public resources.



The study carried out by Ribeiro and Queiroz<sup>(23)</sup> provides a comprehensive overview of how the judicialization of health has been dealt with in Brazil, highlighting in particular the effects of the judgments of repetitive appeals by the Higher Courts. This work exposes the way in which these judicial decisions have been fundamental in shaping public health policies, by establishing precedents that standardize the processing of health claims. These judgments serve to standardize judicial decisions throughout the country, promoting greater coherence and predictability in the health system's responses to citizens' needs. Vieira<sup>(24)</sup> also highlights the importance of uniform decisions, pointing out that variability in judicial decisions can lead to inequality in access to health treatments.

In addition, the study highlights the crucial importance of obtaining a more consistent and integrated legislative interpretation, with the aim of minimizing disparities in access to health treatments and services between the different regions of Brazil. The lack of uniformity in the interpretation of laws regulating the right to health can result in an unequal distribution of health resources, adversely affecting equity and justice in the care of populations. Therefore, the study by Ribeiro and Queiroz<sup>(23)</sup> emphasizes the need for a more standardized and equitable approach to resolving health-related legal issues, with a view to ensuring fairer and more uniform access to medical services throughout the country. Studies such as Barroso's<sup>(25)</sup> also reinforce this need, highlighting that the fragmentation of judicial decisions can lead to an unequal application of the right to health.

The research by Tavares Amaral et al.<sup>(26)</sup> employs Strauss and Corbin's paradigmatic model to deepen the understanding of the judicialization of health in Brazil, through a meticulous bibliometric analysis. This theoretical model is used to decipher the complexity of the interactions and processes underlying judicial decisions in health cases, allowing for a detailed exploration of the conceptions and practices that shape these decisions. The study maps patterns and trends in scientific publications related to judicialization, highlighting how varied interpretations of the right to health impact judicial outcomes. The study by Freitas et al.<sup>(27)</sup> also addresses the different theoretical and practical approaches to the judicialization of health, highlighting how these variations can influence the allocation of resources and the effectiveness of public health policies.

The findings reveal a diversity of theoretical and practical perspectives, highlighting that the way in which the right to health is understood and applied can vary significantly, directly influencing the nature of judicial decisions. By illuminating these trends, the analysis suggests that a more in-depth and integrated understanding of the theoretical underpinnings may be crucial to formulating more efficient and equitable strategies for managing judicialization. Thus, the study by Tavares Amaral et al.<sup>(26)</sup> points to the need to advance in the development and application of robust theoretical models that can more accurately guide public policies and judicial practices in the context of health. These findings are echoed by Yamin and Gloppen<sup>(28)</sup>, who argue that the legal interpretation of the right to health should be informed by a comprehensive understanding of the social and economic implications of judicial decisions.

Abadía-Barrero<sup>(29)</sup> and Vargas-Zea et al.<sup>(30)</sup> explored the significant repercussions of the neoliberal policies implemented in Colombia, focusing specifically on worsening inequalities in access to health. These studies highlighted how such policies have led to an increase in recourse to the judicial system as a critical mechanism for securing essential health rights. The research pointed to an increase in cases in which citizens, unable to obtain adequate health care through regular channels, turn to the courts in search of medicines, treatments and procedures that are not readily available through the public health system. This phenomenon not only highlights the flaws in the health system, but also

reflects the urgency of revising and reformulating health policies so that they are more inclusive and equitable, thus promoting universal access to quality health services. In this way, the studies recommend a review of policy approaches to mitigate disparities and ensure that all citizens can fully exercise their right to health without the need for litigation. Additional research by Tess<sup>(31)</sup> also suggests that judicialization, as a response to health system failures, is a symptom of structural inequalities and insufficient public health policies.

The study by Vélez et al.<sup>(32)</sup> takes a deeper look at how values influence health policies, focusing on specific cases in Chile and Colombia. The authors explore in detail the personal and collective values that guide policymakers and other stakeholders involved in the formulation and implementation of health policies. Specifically, the values cited include principles such as justice, which refers to the equitable distribution of health resources; equity, which seeks to compensate for historical and social inequalities in access to health; and effectiveness, related to the ability to achieve desired public health outcomes efficiently. Studies such as Daniels<sup>(33)</sup> also discuss the importance of integrating values such as justice and equity into health policies to promote a fairer distribution of health resources.

This study emphasizes the complexity of the interactions between these values and how they can sometimes conflict or reinforce each other in political decisions. For example, effectiveness may require concentrated investments in areas that promote the greatest public health return, while equity may require the allocation of resources to marginalized groups that do not necessarily present the greatest immediate benefits. The research suggests that effective health policy needs a careful balance of these values, recommending the inclusion of multiple perspectives in the decision-making process to ensure that different needs and viewpoints are considered, leading to more inclusive and equitable policies. A similar study by Ruger<sup>(34)</sup> highlights the need for a balance between equity and efficiency to achieve better public health outcomes.

Wang's study<sup>(35)</sup> also offers a critical look at how Brazil's Supreme Court has dealt with the issue of healthcare rationing, highlighting the challenges and implications of judicial decisions for the healthcare system. Wang discusses that while judicial intervention can guarantee access to treatment for some individuals, it can also destabilize the planning and resource allocation of the healthcare system, often resulting in inefficient allocations that do not meet the needs of the population in an equitable manner. These analyses are especially valuable for Latin America, where the challenges of judicialization include both guaranteeing access to medicines and treatments and the need to financially sustain health systems in a context of limited resources. The lessons from the contexts studied by Wang suggest that adaptations of these approaches could help formulate strategies that better balance individual rights with the collective needs and efficiency of health systems in the region. Almeida<sup>(36)</sup> also points out that judicial intervention must be balanced with the capacity of the health system to meet collective needs, avoiding decisions that could jeopardize the sustainability of the system.

The authors propose that aligning the personal and collective values of decision-makers with clearly defined ethical principles is fundamental to formulating and implementing health policies that not only respond effectively to the needs of the population, but also promote social justice and equity, creating a more robust and inclusive health system.

In Vieira's work<sup>(1)</sup>, the historical trajectory of judicialization in Brazil is explored in detail, highlighting how health-related lawsuits began and evolved over time. Vieira analyzes the factors that have contributed to the growth of these demands, such as the structural deficiencies of the Unified

Health System (SUS), the lack of access to essential medicines and treatments, and the system's slowness in responding to patients' urgent needs. The research also addresses the response of the judicial system to these demands, including the way in which court decisions have influenced health policies, often forcing the state to fulfill its constitutional duties to provide health as a fundamental right. The literature, including studies by Diniz et al.<sup>(37)</sup>, supports these observations, highlighting how the lack of access to essential medicines and treatments has driven judicialization in Brazil.

Floriano et al.<sup>(38)</sup> propose a series of strategies to address the judicialization of health in Brazil. These strategies include improving the transparency of health policies and communication between health managers and the population, in order to reduce the misunderstandings and unmet expectations that often lead to judicialization. Another strategy highlighted by the authors is the strengthening of primary care networks, which can help solve health problems at the most basic level before they become urgent and complex cases requiring judicial intervention. In addition, Floriano and collaborators<sup>(38)</sup> emphasize the importance of investments in technology and innovation in the health system to improve the efficiency and responsiveness of the SUS, potentially reducing the need for litigation. These measures are seen as essential to creating a fairer and more effective healthcare system, reducing the burden on the judicial system and improving access to healthcare for all Brazilians. In line with this, studies by Norheim and Wilson<sup>(39)</sup> also suggest that strengthening primary care can reduce judicial demand, providing more accessible and equitable care.

The work by Ramos, Sena and Rosário<sup>(40)</sup> expands the debate by discussing the right to health in relation to experimental treatments and the pharmaceutical industry. This work reveals complex facets of judicialization, especially the ethical issues that emerge when patients seek access to therapies still in the testing phase, and the economic issues, given the significant financial implications for health systems that need to provide these high-cost treatments. The authors argue that these legal claims not only put pressure on the health system in terms of resources, but also raise important ethical dilemmas about equity and justice in access to treatments that have not yet been widely validated scientifically. Thus, the work contributes to the debate on how to balance the individual rights of patients with the ethical and financial responsibilities of health systems and the need for careful regulation of the pharmaceutical industry in relation to the innovation and availability of new treatments. Studies by Silva<sup>(41)</sup> and Marques<sup>(42)</sup> also address the ethical and economic implications of judicialization for experimental treatments, highlighting the need for clear, evidence-based criteria for granting these treatments.

These analyses lead to the proposal of alternatives aimed at guaranteeing the right to health without compromising the efficiency and equity of the systems. The authors propose innovative political and structural solutions that can balance individual demands for health services with collective needs. This includes reformulating public policies to improve resource management, increase transparency and strengthen primary care systems, thus promoting fairer and more sustainable health systems. Such changes are fundamental to reducing dependence on the judicial system as a means of accessing health, relieving pressure on the courts and allowing health systems to operate more efficiently and equitably. In line with this, Mendonça et al.<sup>(43)</sup> highlight the importance of integrated policies that combine strengthening primary care with greater transparency in the management of health resources.

Finally, the study conducted by Zebulum<sup>(44)</sup> deepens the understanding of the role of judges' personal convictions in judicial decisions regarding health in Brazil, shedding light on a less discussed

facet of judicialization. Through detailed analysis of case law in four courts of justice, the research reveals that judges' individual preferences, beliefs and values exert a significant influence on verdicts. This dynamic results in considerable variability in judicial decisions, compromising the consistency and predictability of access to health services.

This pattern of decisions, heavily influenced by subjective factors, highlights the urgent need to implement greater transparency and establish more objective criteria in the adjudication of health cases. Zebulum suggests that the adoption of clearer and stricter guidelines could help reduce the discrepancy in court rulings, ensuring that decisions are based more on medical evidence and consistent legal principles, rather than being shaped by judges' personal interpretations. Thus, Zebulum's study draws attention to the importance of judicial reforms that strengthen objectivity and equity in the treatment of health issues, promoting more uniform and fair access to health services. Studies by Hoffmann and Bentes<sup>(45)</sup> also emphasize the need for objective, evidence-based criteria to improve consistency and fairness in health-related judicial decisions.

A constructive and continuous dialogue between the executive, legislative and judicial branches is crucial to finding sustainable solutions to the judicialization of health. This dialog should focus on creating mechanisms that guarantee universal and equitable access to health, without overburdening the judicial system and compromising the effectiveness and efficiency of health systems<sup>(44)</sup>. As suggested by Silva et al.<sup>(46)</sup>, inter-institutional collaboration is essential to develop strategies that balance the protection of individual health rights with the sustainability of health systems.

In conclusion, this systematic review highlights the judicialization of health as an intricate phenomenon with profound implications for the equity, efficiency and sustainability of health systems in Latin America. The studies reviewed indicate the urgency of integrated approaches that combine legal reforms with improvements in health systems, aimed at achieving an optimal balance between individual health needs and collective imperatives of social justice and sustainability.

## Conclusion

The final considerations of this systematic review highlight the judicialization of health as a complex and multifaceted phenomenon in Latin America, especially in the contexts of Brazil and Colombia. The detailed analysis of the existing literature reveals that judicialization transcends the mere response to systemic deficiencies or failures in health policies, and also manifests itself as an expression of the demand for social justice and the realization of fundamental rights in the field of health.

It is notable that while judicialization can serve as a means of access to essential treatments and medicines, it also raises substantial issues related to the financial sustainability of health systems, equity in access to medical care and the equitable distribution of limited resources. The significant involvement of the judiciary, while vital in protecting individual rights to health, prompts reflection on the urgency of comprehensive reforms that ensure the right to health in a more sustainable and integrated manner, minimizing the need for legal intervention.

It is therefore essential that Latin American nations make efforts to develop solutions that simultaneously address the legal dimensions and the operational challenges faced by health systems. This involves implementing public policies focused on promoting social inclusion and equity, improving the management of health systems to optimize efficiency and adopting clear and transparent criteria for the introduction of technological and pharmacological innovations. Furthermore, it is

crucial to stimulate dialogue between the various actors involved, including government representatives, the private sector, health professionals and civil society, with a view to establishing a consensus on how to balance individual health rights with collective needs and available resources.

This systematic review underlines the urgency of holistic approaches to address the challenges inherent in the judicialization of health in Latin America. By promoting reforms based on principles of social justice, equity and sustainability, the countries of the region can move towards health systems that effectively ensure the right to health for all, reducing dependence on judicial solutions as the primary mechanism for access to essential health care.

### Conflict of interest

The authors declare that there is no conflict of interest.

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### Author's contribution

Rafaela C. Lira and César A. S. Andrade conceived and designed the study. Rafaela C. Lira carried out the data acquisition. Rafaela C. Lira and Jéssica V. L. Mâcedo contributed to data analysis and interpretation. Rafaela C. Lira took part in writing the manuscript. Rafaela C. Lira and César A.S. Andrade contributed to the critical review of the study.

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