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Judicial Proceedings in Latin America. A Comparative Study of Venezuela, Ecuador and Colombia

Procesos judiciales en Latinoamérica. Un estudio comparado entre Venezuela, Ecuador y Colombia

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ABSTRACT

Latin American judicial proceedings are moving from written procedure toward orality and technological mediation at uneven speeds, since each legal system combines constitutional mandate, codification and institutional capacity in its own way. The study therefore set out to comparatively analyze judicial proceedings in Venezuela, Ecuador and Colombia in terms of their constitutional basis, codified structure, technological mediation and institutional conditions. A qualitative, documentary and functional comparative law approach was applied to twenty-five sources, comprising seven legal instruments and eighteen peer-reviewed articles. The results show that Ecuador extended hearing-based orality across most non-criminal matters, Colombia made digital justice permanent through Law 2213 of 2022, and Venezuela retains a written civil procedure despite Article 257 of its Constitution. The study concludes that procedural effectiveness depends on coherence between legal rules, technological tools and judicial institutions.
Descriptors: administration of justice; courts; right to justice; comparative law; constitutional law. (Source: UNESCO Thesaurus).

RESUMEN

Los procesos judiciales latinoamericanos transitan de la escritura hacia la oralidad y la mediación tecnológica a ritmos desiguales, por cuanto cada ordenamiento combina de manera distinta mandato constitucional, codificación y capacidad institucional. Es así que el estudio se planteó como objetivo analizar comparativamente los procesos judiciales de Venezuela, Ecuador y Colombia desde su base constitucional, su arquitectura codificada, la mediación tecnológica y las condiciones institucionales. En este sentido se empleó un enfoque cualitativo, documental y de derecho comparado funcional sobre veinticinco fuentes, siete normas y dieciocho artículos arbitrados. Entre los resultados se obtuvo que Ecuador generalizó la oralidad por audiencias, Colombia convirtió en permanente la justicia digital con la Ley 2213 de 2022 y Venezuela conserva un proceso civil escrito pese al artículo 257 constitucional. Entre las conclusiones se estableció que la eficacia procesal depende de la coherencia entre norma, herramienta e institución.
Descriptores: administración de justicia; tribunal; derecho a la justicia; derecho comparado; derecho constitucional. (Fuente: Tesauro UNESCO).

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Research Articles Section

INTRODUCTION

The question of how Latin American States resolve citizens' disputes before their courts has ceased to be a matter of procedural technique and has become an indicator of democratic quality, since the judicial process is the place where the rights proclaimed in constitutions become enforceable or fade away in the waiting; hence Venezuela, Ecuador and Colombia, three countries that share borders, a codifying tradition of Hispanic roots and constitutions enacted between 1991 and 2008, offer a fertile setting for examining how the same guarantee-based ideal has produced different procedural architectures. In Colombia, the Asamblea Nacional Constituyente (1991) provided in Article 228 that in judicial proceedings "substantive law shall prevail" and that procedural time limits shall be observed with diligence, while in Venezuela the Asamblea Nacional Constituyente (1999) enshrined in Article 26 an expeditious justice, "without undue delays, without useless formalisms or replacements", and ordered in Article 257 that procedural laws adopt a brief, oral and public procedure; in Ecuador, the Asamblea Constituyente (2008) went further by providing in Article 168 that the conduct of proceedings in all matters, instances and stages be carried out through the oral system, warning in Article 169 that "justice shall not be sacrificed for the mere omission of formalities".

But what happened to those mandates when they descended to the codes and courtrooms of each country? In this regard, the picture is far from homogeneous, because Ecuador replaced the former Code of Civil Procedure with the General Organic Code of Procedure (Asamblea Nacional, 2015), which organized most non-criminal matters around hearings, and Colombia issued the General Code of Procedure through Law 1564 (Congreso de la República de Colombia, 2012), while Venezuela keeps in force the Code of Civil Procedure published in 1990 (Congreso de la República de Venezuela, 1990), which preserves the written structure of the ordinary trial and reserves orality for a special procedure regulated from Article 859 onward. On this point, Vásquez (2023) notes that Venezuelan orality made its way sector by sector, first in laws prior to the Organic Code of Criminal Procedure and then in this instrument, which extended it to the pre-trial phases of criminal

proceedings; this implies that the mandate of constitutional Article 257 was fulfilled by subject matter, without reaching the civil core of the system.

Another aspect that must be reviewed is technological mediation, accelerated by the 2020 health emergency, since while Colombia turned Legislative Decree 806 of 2020 into permanent legislation through Law 2213 (Congreso de la República de Colombia, 2022), intended to implement information technologies in judicial proceedings, expedite cases and make user services more flexible, in Ecuador the practice of telematic hearings advanced faster than its material support. This is shown by Aguilar-Martínez and Flores-Idrovo (2022), who documented that 44% of the participants in their study at the Criminal Guarantees Court of Cuenca considered that the entity did not have adequate computer equipment to ensure a telematic hearing; Borja-Martínez et al. (2024) complement the finding by acknowledging that hearings through digital platforms reduced processing times and broadened access in a country of marked geographic inequalities, although they carry limitations in infrastructure, training of judicial staff and digital equity.

The foregoing invites reflection on a dimension that codes do not resolve by themselves, namely the institutional condition of those who judge. In this regard, Figueroa García-Herreros (2019) reconstructs the legal theory that has guided the decisions of the Constitutional Chamber of the Supreme Tribunal of Justice of Venezuela and describes it as a conception that understands law as an instrument at the service of the struggle for political hegemony, whereas Ferrer Mac-Gregor (2019), commenting on the case of San Miguel Sosa et al. v. Venezuela, links misuse of power with judicial independence. And in Ecuador? Cevallos Ortega and Mena Manzanillas (2023) examine the disciplinary proceedings in which the Judicature Council declares the inexcusable error provided for in Article 131.3 of the Organic Code of the Judicial Function, a figure that entails the judge's dismissal, and argue that such a declaration must originate in the jurisdictional route, because in the administrative venue it ends up “violating due process and the very judicial independence” protected by Articles 76.3 and 168 of the Constitution. In Colombia the tension changes sign, since Benítez-R. (2022) describes a self-interest of the judiciary itself when constitutional review falls on reforms that affect the governance of the judicial branch.

What is meant here by effective judicial protection? The notion adopted comprises access to the court, a reasoned decision within a reasonable time and its enforcement, a notion that in Venezuela is tested in very specific areas. Colmenares (2025), from applied research at a descriptive legal level, asks “whether confiscation without criminal conviction is possible in Venezuela” when applying the Organic Law on Asset Forfeiture, and to answer reads the Constitution and the Code of Civil Procedure jointly on precautionary matters; Fraga (2022) reviews tax justice cases after the Organic Tax Code of October 17, 2001 and its 2010, 2014 and 2020 reforms, concluding with the “dismantling of the Rule of Law for Taxpayers”, while Vivas Roso (2023) describes public services litigation regulated in the Organic Law of the Contentious-Administrative Jurisdiction as an “ineffective mechanism”.

With regard to orality, the Ecuadorian case admits two complementary readings, since Linzán-Saltos et al. (2023) place the starting point in the 2008 Constitution and in the full entry into force of the General Organic Code of Procedure in 2016, from which time procedural principles operate as “guiding parameters” of legal rules, and León-Trujillo et al. (2024), from the Universidad Técnica de Ambato, compare that code with the former Code of Civil Procedure and record that writing survives in the complaint, where facts, grounds, claim and means of evidence are set out, and in the hearing record. Nevertheless, Guevara Ruiz et al. (2021) warn that the Ecuadorian code does not expressly define the principle of concentration, unlike the Uruguayan General Code of Procedure, so that orality runs the risk of being reduced to a hearing format without the effective bringing together of procedural acts that gives it meaning; García Odgers and Fuentes Maureira (2020) add a broader nuance by describing the emergence of case management, which leaves behind the figure of the judge as director of the process and places the judge as manager of the case in the face of the demands of the time.

Based on the above, the research aims to comparatively analyze the judicial proceedings of Venezuela, Ecuador and Colombia in terms of their constitutional basis, their codified architecture, technological mediation and the institutional conditions that affect effective judicial protection.

METHOD

The methodology used is qualitative, with a documentary design and a descriptive-comparative scope, applying the method of functional comparative law, which contrasts the solutions that each legal system offers to the same problem, in this case the handling of the dispute from the complaint to the decision, instead of comparing homonymous institutions in isolation. Accordingly, a corpus of twenty-five sources was assembled, with the units of analysis being seven primary legal instruments, namely the three constitutions, the Venezuelan Code of Civil Procedure, the General Organic Code of Procedure, the General Code of Procedure and Law 2213 of 2022, together with eighteen articles published in peer-reviewed journals between 2019 and 2025. The inclusion criteria were relevance to any of the three countries or to Latin American procedural comparison, publication in a peer-reviewed journal and verification of the DOI in the Crossref registry, excluding gray literature, theses and documents without peer review.

The technique was legal content analysis, organized into four axes of comparison defined before reading the corpus (constitutional basis, codified architecture, technological mediation and institutional conditions), which made it possible to scrutinize each source with the same recording matrix, identifying in each axis the rule in force, the evidence provided by the doctrine and the critical issues reported. Table 1 presents the distribution of the corpus by country and axis; inferences that go beyond what the sources state, such as the typology of trajectories in Figure 1, are indicated as the author's interpretation.

Table 1. Distribution of the corpus by country, type of source and axis of comparison.

Country	Legal instruments	Articles	Axis 1	Axis 2	Axis 3	Axis 4	Total
Venezuela	2	6	2	2	0	4	8
Ecuador	2	6	2	3	2	1	8
Colombia	3	5	1	3	3	1	8
Regional	0	1	0	1	0	0	1
Total	7	18	5	9	5	6	25

Note. Axis 1: constitutional basis; Axis 2: codified architecture; Axis 3: technological mediation; Axis 4: institutional conditions. Each source was assigned to its predominant axis. Developed in-house based on the corpus (1990-2025).

ANALYSIS OF RESULTS

A joint reading of the three constitutions reveals a shared ideal with different normative intensities, since the Ecuadorian Constitution formulates an organizational rule that indicates how proceedings must be conducted in all matters (Asamblea Constituyente, 2008), the Venezuelan one directs a mandate to the legislature to adopt a brief, oral and public procedure without setting a deadline for its fulfillment (Asamblea Nacional Constituyente, 1999), and the Colombian one prefers a principle of the prevalence of substantive law and diligence in time limits, leaving the form of the procedure to the law (Asamblea Nacional Constituyente, 1991). This indicates that the 2008 text is the only one of the three that makes orality a requirement directly verifiable by the judge, while in the other two countries its implementation was left in the hands of ordinary legislation; Linzán-Saltos et al. (2023) support this reading by pointing out that in Ecuador procedural principles acquired the status of guiding parameters, and Colmenares (2025), conversely, shows that in Venezuela precautionary protection must be reconstructed through a systematic analysis of the Constitution and a code that precedes it by almost a decade.

Codified architecture of the process

How were these foundations translated into the everyday structure of litigation? Table 2 summarizes the answer for non-criminal proceedings, which account for most ordinary litigation and in which the differences between the three countries are sharpest.

Table 2. Comparative matrix of the non-criminal procedural architecture.

Element	Venezuela	Ecuador	Colombia
Code in force	Code of Civil Procedure (1990)	General Organic Code of Procedure (2015, fully in force since 2016)	General Code of Procedure, Law 1564 (2012)
Form of the ordinary trial	Written, with orality reserved for a special procedure (Art. 859 et seq.)	Oral by hearings, with a preliminary hearing and a trial hearing	Verbal by hearings, with an initial hearing and an evidence and judgment hearing
Summary proceedings	Brief and oral in specified cases	Summary with a single hearing, order for payment and enforcement proceedings	Summary verbal and order for payment proceedings
Control of duration	No overall maximum time limit for the process	Time limits per procedural act	One year for the first instance from notification of the order admitting the claim, under penalty of loss of jurisdiction (Art. 121)
Orality in other matters	Sectoral, consolidated in criminal proceedings	Extended to almost all non-criminal matters	Extended to civil, family and agrarian jurisdiction

Note. Developed in-house based on Congreso de la República de Venezuela (1990), Asamblea Nacional (2015), Congreso de la República de Colombia (2012), Vásquez (2023), León-Trujillo et al. (2024) and Linzán-Saltos et al. (2023).

The matrix highlights that Ecuador and Colombia converge on the hearing-based process model, with two oral moments that separate the curing of defects and the framing of the subject of the dispute from the taking of evidence and the decision, whereas Venezuela remains in a written-file model for the ordinary civil trial. However, the formal convergence between Quito and Bogotá conceals design differences, since the Colombian code incorporated a maximum-duration rule for the first instance with consequences for the judge's jurisdiction (Congreso de la República de Colombia, 2012), a mechanism that has no equivalent in the Ecuadorian code and that fits the case management logic described by García Odgers and Fuentes Maureira (2020). At the same time, Guevara Ruiz et al. (2021) warn that the absence of an express definition of the principle of concentration in the Ecuadorian code weakens the bringing together of acts in a single hearing, and León-Trujillo et al. (2024) recall that writing survives in the complaint and in the record.

In Colombia, summary proceedings show that legal reform is not enough to change litigants' practices, since Guerrero Arroyave et al. (2023) found that the order for payment procedure meets the constitutional requirements for swift access to justice, although lawyers prefer enforcement proceedings when the law allows it, because the order for payment procedure is not economically attractive to them, and citizens

are unaware of its existence. López-Olvera (2025) provides an external reading by taking the Colombian General Code of Procedure, together with the Uruguayan one, as a benchmark of evidentiary rules with epistemic virtues transferable to a future Mexican codification, which places Colombia as an exporter of procedural models in the region. In Venezuela, the most far-reaching procedural renewal occurred in criminal matters, where Vásquez (2023) characterizes orality as a guiding principle linked to immediacy, publicity and concentration, so that the country exhibits a duality between an oral criminal process and a civil process that continues to revolve around the case file.

Technological mediation

The technological axis clearly sets Colombia apart from the rest, since Law 2213 raised a regime born of the emergency to permanent legislation (Congreso de la República de Colombia, 2022), and Acevedo Pamplona and Gallego Castaño (2022) examine the differences and similarities between that law and Decree 806 of 2020, as well as the criticisms made of both instruments, while Diz Muñoz et al. (2022) document that the reform introduced by Law 2080 of 2021 to the contentious-administrative code developed the principle of speed through portals, electronic offices and technological systems, presenting it as a step toward reducing court congestion. In Ecuador, progress came more from judicial practice than from a specific law, with the equipment shortfalls reported by Aguilar-Martínez and Flores-Idrovo (2022) and the access gains described by Borja-Martínez et al. (2024), who call for resilient regulations and digital literacy. For Venezuela, the corpus did not retrieve peer-reviewed studies on the technological mediation of the process, an absence that in itself reveals a pending research agenda.

Institutional conditions

Table 3 brings together the critical issues that the reviewed literature associates with judicial institutions, a dimension in which the differences between the three countries are of degree and also of nature.

Table 3. Institutional critical issues reported by the literature in the corpus.

Country	Critical issue	Effect on judicial protection	Source
Venezuela	Legal theory of the Constitutional Chamber oriented toward a political project	Loss of impartiality in constitutional review	Figueroa García-Herreros (2019)
Venezuela	Misuse of power examined by the Inter-American Court in the case of San Miguel Sosa et al.	Weakening of judicial independence	Ferrer Mac-Gregor (2019)
Venezuela	Tax and public services litigation proceedings with little effectiveness	Lack of protection for taxpayers and users	Fraga (2022); Vivas Roso (2023)
Ecuador	Declaration of inexcusable error by the Judicature Council in the administrative venue	Risk to the internal independence of judges	Cevallos Ortega and Mena Manzanillas (2023)
Colombia	Judicial self-interest in the review of constitutional reforms to the justice system	Corporate resistance to the reform of judicial governance	Benítez-R. (2022)

Note. Developed in-house based on the sources cited.

In Venezuela, the literature describes a problem that precedes procedural design, since a court that, according to Figueroa García-Herreros (2019), conceives of its function as facilitating a political project can hardly offer the impartial third party presupposed by any process model, whether written or oral; Fraga (2022) and Vivas Roso (2023) show how this deficit translates into specialized jurisdictions, where formal mechanisms exist but do not protect. In Ecuador, the critical issue lies in the relationship between the judicial governing body and the judges, and in Colombia in the capacity of the judiciary itself to resist changes in its governance, hence a challenge intrinsic to the three systems, which consists in ensuring that whoever conducts the hearing does so independently of the other branches of government and of their own corporation.

Figure 1 integrates the four axes into a typology of trajectories which, as indicated in the method, constitutes the author's interpretation based on the corpus and not a quantitative measurement.

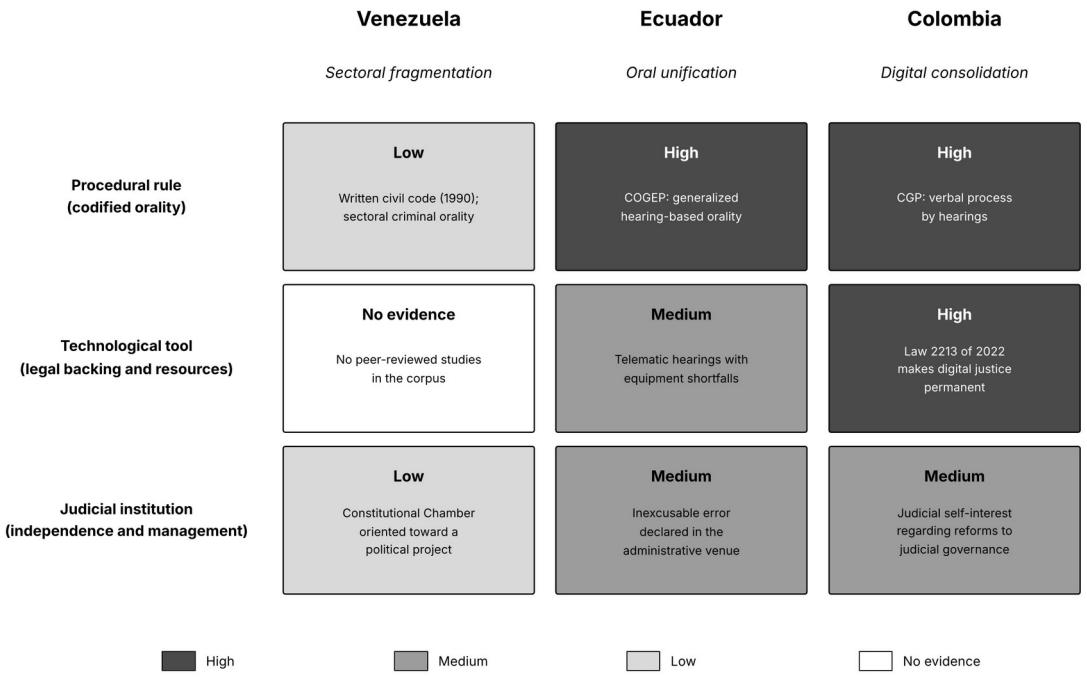


Figure 1. Procedural trajectories according to the coherence between legal rule, tool and institution.
Note. Qualitative assessment prepared by the author based on the synthesis of Tables 1, 2 and 3.

DISCUSSION

The results support the claim that orality, which for three decades became the watchword of Latin American procedural reforms, explains only part of the effectiveness of the process, since Ecuador and Colombia achieved a similar hearing-based architecture and yet exhibit different problems, some linked to concentration and equipment and others to the conduct of litigants and the management of procedural time. Indeed, León-Trujillo et al. (2024) found writing still present in the Ecuadorian complaint and record, and Guerrero Arroyave et al. (2023) recorded that Colombian lawyers prefer enforcement proceedings because the order for payment procedure, according to their findings, “does not represent an economically preponderant aspect” for them.

What lessons could circulate among the three countries? Table 4 organizes them in the author's judgment, together with the condition that each requires in order to work in the legal system that receives it.

Table 4. Transferable lessons among the legal systems studied.

Lesson	Origin	Possible recipient	Condition for its effectiveness	Source
Maximum one-year time limit for the first instance, under penalty of loss of jurisdiction (Art. 121 CGP)	Colombia	Ecuador	Active case management by the judge	García Odgers and Fuentes Maureira (2020)
Digital justice with the status of permanent law (Law 2213 of 2022)	Colombia	Ecuador and Venezuela	Sufficient equipment and resilient regulations	Aguilar-Martínez and Flores-Idrovo (2022); Borja-Martínez et al. (2024)
Express definition of the principle of concentration	Uruguay	Ecuador and Colombia	Effective bringing together of decisive acts at the hearing	Guevara Ruiz et al. (2021)
Oral civil process by hearings	Ecuador and Colombia	Venezuela	Prior guarantees of judicial independence	Figueroa García-Herreros (2019); Ferrer Mac-Gregor (2019)

Note. CGP: General Code of Procedure (Código General del Proceso). The condition column corresponds to the author's interpretation. Developed in-house.

In the Venezuelan case, closing the gap between constitutional Article 257 and the 1990 code seems a legislative task, although Colmenares (2025) and Fraga (2022) describe precautionary and tax guarantees that fail because of the judge's attitude toward public authority and not because of the format of the case file, so that orality transplanted without judicial independence would be reduced to form; the recovery of that independence would therefore be the precondition for any procedural reform.

CONCLUSIONS

Among the conclusions, the 2008 Ecuadorian Constitution is the only one of the three that imposes orality as the way of conducting proceedings in all matters (Article 168), whereas the 1999 Venezuelan Constitution entrusts it to the legislature in Article 257 and the 1991 Colombian Constitution merely requires, in Article 228, the prevalence of substantive law and diligence in time limits.

It was likewise established that the 2015 General Organic Code of Procedure and the 2012 General Code of Procedure separate the curing of defects and the trial into two oral acts, although only the Colombian code sets one year for the first instance and only Colombia raised digital justice to permanent law in June 2022; in Venezuela, the ordinary civil trial is still governed by the written file of the 1990 code while the criminal process is oral, and the reviewed literature places the recovery of judicial independence ahead of any reform.

Finally, it is concluded that the trajectories of oral unification in Ecuador, digital consolidation in Colombia and sectoral fragmentation in Venezuela respond to the degree of coherence between legal rule, tool and institution. It remains to contrast this typology with data on case duration and with empirical studies on technology in Venezuelan courts, of which the corpus recorded no peer-reviewed ones.

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CONFLICT OF INTEREST

The author declares that she has no conflict of interest in relation to this research.

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