This book is an empirical study of contributions by courts in the Global South to comparative constitutionalism. It offers an analytical and comparative framework for understanding these constitutional innovations and illustrates them with a detailed qualitative study of the most ambitious case in constitutional adjudication in Latin America over the last decade: the Colombian Constitutional Court’s structural injunction affecting the rights of more than four million internally displaced people (IDPs) in Colombia, and its implementation process. Although the ruling (known as T25 in Colombia) was handed down in 2004, its monitoring process continues to this day. This book traces the case’s evolution over the last ten years, from its origin to its effects on law, policy, politics, and public opinion.

It also compares the implementation and effects of T25 with those of other structural rulings on the right to health, the right to food, prison overcrowding, and the right to housing in Colombia, India, and South Africa. The far-reaching insights from this case study will be of interest to scholars of comparative constitutionalism as well as leading constitutional courts in Latin America, Africa, and Asia.

César Rodríguez-Garavito is an associate professor and founding director of the Program on Global Justice and Human Rights at the University of the Andes (Colombia), and a founding member of the Center for Law, Justice, and Society (Dejusticia). He has published widely on law, social movements, and human rights. He is the author or editor of several books including Law and Society in Latin America (2015), Balancing Wealth and Health (2014), and Law and Globalization from Below (2005).

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Comparative constitutional law is an intellectually vibrant field that encompasses an increasingly broad array of approaches and methodologies. This series collects analytically innovative and empirically grounded work from scholars of comparative constitutionalism across academic disciplines. Books in the series include theoretically informed studies of single constitutional jurisdictions, comparative studies of constitutional law and institutions, and edited collections of original essays that respond to challenging theoretical and empirical questions in the field.

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- *Comparative Constitutional Design* edited by Tom Ginsburg
Radical Deprivation on Trial

THE IMPACT OF JUDICIAL ACTIVISM
ON SOCIOECONOMIC RIGHTS IN THE GLOBAL SOUTH

CÉSAR RODRÍGUEZ-GARAVITO
University of the Andes and Dejusticia

DIANA RODRÍGUEZ-FRANCO
Northwestern University and Dejusticia
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César Rodríguez-Garavito and Diana Rodríguez-Franco
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The work that culminates in this book has been as intense as it was challenging. Intense because the field research took us from court and government offices in the center of Bogotá to cities and neighborhoods in the Colombian periphery where the victims of forced displacement live with one of the greatest humanitarian emergencies in the world. Challenging because what we found along the way in Colombia and other countries of the Global South, where courts have challenged radical deprivation, did not easily fit within the models that comparative constitutional studies have created to conceptualize the connections between these different places.

This book attempts to trace these connections through a detailed analysis of the Colombian Constitutional Court’s decisions regarding forced displacement, which many have recognized as one of its most notable and innovative contributions to contemporary constitutionalism. What impact has it had on public policy, public opinion, and, lastly, the displaced population’s condition? What does this case study tell us about classic questions regarding the role of law and courts in social transformation, or about judicial activism’s legitimacy and usefulness? What political, legal, economic, and social effects do the aforementioned judicial interventions have on structural social problems such as these? Lastly, how does it compare to similar cases in India, South Africa, and other countries of the Global South?

In the following pages we explain our analytic framework and the empirical evidence with which we have tried to respond to these questions. But first, we would like to express our deep and hearty gratitude to all the people that supported us in this effort, without whom this endeavor would have undoubtedly been harder and less fascinating. First, we would like to thank our colleagues and friends in the Center for Law, Justice, and Society (Dejusticia), who have accompanied us since the project’s beginning with ideas and suggestions. We give special thanks for the unconditional support
from Carolina Bernal, Mauricio García-Villegas, Diana Guzmán, Diego López, Natalia Orduz, Javier Revelo, Camilo Sánchez, and Rodrigo Uprimny. We also thank the researchers that have contributed to specific aspects of the study: Carlos Andrés Baquero, Julián Berrió, Luisa Ferreira, Catalina Góngora, Patrick M. Higgins, Sean Luna McAdams, Magnolia Prada, Hernán Ramírez, and Benjamin Saper.

We have been privileged to count on four experts’ guidance in traversing the various complexities of forced displacement: Andrés Celis, Luis Jorge Garay, Luis Eduardo Pérez, and Clara Elena Reales. We thank them for generously sharing their knowledge with us. Lastly, the members of the Constitutional Court’s Special Monitoring Chamber, in particular Lucía Delgado, Ingrid Santos, and Félix Torres, were extremely generous with their time and knowledge when we were updating the book.

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All those that agreed to be interviewed were equally generous, sharing their experiences and providing us with an essential data source for our study. We thank the judges, public officials, displaced population organizations’ leaders, human rights activists, and all others who amongst the demands of daily life kindly opened the doors to their offices or homes to us.

The support of the Ford Foundation, especially Martín Abregú and Felipe Agüero, made possible the action-research projects that resulted in this book. Our deep gratitude also to Zachary Elkins, Tom Ginsburg, and Ran Hirschl for welcoming our work into Cambridge’s Comparative Constitutional Law and Policy series, and to John Berger for his invaluable guidance throughout the editorial process.

Finally, the most important acknowledgments, the ones that come from the heart but cannot adequately be put into words. César dedicates this book to Ulpi, for filling every place and moment with sweetness and joy. Diana dedicates it to Michel, for valuing and supporting this and other efforts with love and tenderness. If this book helps, even the slightest bit, to ameliorate the situation of those forcefully uprooted from their homes, we know that they both will think it was worth the work.
Abbreviations

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<tr>
<th>Abbreviation</th>
<th>Full Form</th>
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<tr>
<td>ACCI</td>
<td>Colombian Agency for International Cooperation</td>
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<tr>
<td>Afrodes</td>
<td>Colombian Association of Displaced Afro-Colombians</td>
</tr>
<tr>
<td>Bancoldex</td>
<td>Colombian Foreign Trade Bank</td>
</tr>
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<td>CCC</td>
<td>Colombian Constitutional Court</td>
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<td>CERREM</td>
<td>Committee for the Evaluation of Risks and Recommendation of Measures</td>
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<tr>
<td>Cijus</td>
<td>Socio-Legal Research Centre of the University of the Andes</td>
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<tr>
<td>CNAIPD</td>
<td>National Council for Integral Assistance to the Displaced Population</td>
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<tr>
<td>Codhes</td>
<td>Consultancy for Human Rights and Displacement</td>
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<tr>
<td>Compes</td>
<td>National Council for Social and Economic Policy</td>
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List of abbreviations

*El Consejo Nacional de Política Económica y Social*

Dejusticia Center of Law, Justice and Society

Centro de Estudios de Derecho, Justicia y Sociedad

DNP National Planning Department

Departamento Nacional de Planeación

EHA Emergency Humanitarian Aid

ENV National Verification Survey

Encuesta Nacional de Verificación

FARC Revolutionary Armed Forces of Colombia

Fuerzas Armadas Revolucionarias de Colombia

HRW Human Rights Watch

ICBF Colombian Institute for Family Welfare

Instituto Colombiano de Bienestar Familiar

ICRC International Committee of the Red Cross

IDMC Internal Displacement Monitoring Center

IDP Internally Displaced Person

Incoder Colombian Institute of Rural Development

Instituto Colombiano de Desarrollo Rural

MIJ Ministry of the Interior and Justice

Ministerio del Interior y Justicia

Monitoring Commission Monitoring Commission on Public Policy on Forced Displacement

Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado

National Assistance Plan National Assistance Plan to the Population Displaced by Violence

Plan Nacional de Atención Integral a la Población Desplazada por la Violencia (Decree 250 of 2005)

National Roundtable National Roundtable for the Strengthening of Displaced Persons’ Organizations

Mesa Nacional de Fortalecimiento de Organizaciones de Población Desplazada

NDP National Development Plan
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<th>Abbreviation</th>
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<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
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<td>ONIC</td>
<td>National Indigenous Organization of Colombia</td>
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<tr>
<td>PIU</td>
<td>Singular Integral Plan</td>
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<td>RUPD</td>
<td>Singular Registry of Displaced Population</td>
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<tr>
<td>SAHRC</td>
<td>South African Human Rights Commission</td>
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<tr>
<td>SENA</td>
<td>National Apprenticeship Service</td>
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<tr>
<td>SER</td>
<td>Socioeconomic Rights</td>
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<tr>
<td>SGSS</td>
<td>General Health and Social Security System</td>
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<tr>
<td>SNAIPD</td>
<td>National System for Assistance to the Displaced Population</td>
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<tr>
<td>SNAPIV</td>
<td>National System of Assistance and Reparation to Victims</td>
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<tr>
<td>Social Action Agency</td>
<td>Presidential Agency for Social Action and International Cooperation</td>
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<tr>
<td>UBN</td>
<td>Unmet Basic Needs</td>
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<tr>
<td>UNCDES</td>
<td>Unit of Prosecutors against Crimes for Disappearance and Forced Displacement</td>
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**List of abbreviations**

Plan Nacional de Desarrollo  
Programa Nacional de Atención Integral a la Población Desplazada por la Violencia  
Registro Único de Población Desplazada  
Servicio Nacional de Aprendizaje  
Sistema General de Seguridad Social  
Sistema Nacional de Atención Integral a la Población Desplazada  
Sistema Nacional de Atención y Reparación Integral a las Víctimas  
Agencia Presidencial para la Acción Social y la Cooperación Internacional  
Unidad Nacional contra el Desplazamiento y la Desaparición Forzada
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<tr>
<td>UNHCR</td>
<td>United Nations Refugee Agency</td>
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<td>UNHRC</td>
<td>United National Human Rights Council</td>
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<td>WFP</td>
<td>United Nations World Food Program</td>
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<tr>
<td>WOLA</td>
<td>Washington Office on Latin America</td>
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