



**MAX PLANCK INSTITUTE**

FOR COMPARATIVE PUBLIC LAW  
AND INTERNATIONAL LAW

**Thalia Viveros-Uehara**  
**The Fundamental Rights to Life and Health in Climate Litigation:  
Insights from Latin America**

**MPIL Agora**

**1 February, 2023, 15:00-16:00, Room 014**

Because most academic research on climate litigation responds to the historical bulk of lawsuits in the Global North, this scholarship's optimistic view on the potential of litigation to prompt climate action gets mistakenly applied to contexts where poverty and social exclusion compound climate vulnerability—such as those of Latin America. In this world region, health is one of the challenges in which such complex forms of vulnerability are most evident. On the one hand, climate change is already exacerbating disease and pest transmission and increasing morbidity, mortality, and disabilities. As persons living in poverty and members of minority groups lack health systems to prevent, treat, and cure these climate-related health conditions, their health vulnerability is exacerbated. On the other hand, literature on the judicialization of the right to health in Latin America shows how unequal access to courts and courts' legal resources and contexts not always lead to policies benefiting the most vulnerable sectors of society. Still, at the same time, the distinctive constitutional configuration of several Latin American countries—known as the new Latin American constitutionalism (NLAC)—provides litigants and courts with a tool to counter pressing socioeconomic challenges in structural ways.

These complex manifestations of climate-related health vulnerability in Latin America remain understudied within current climate litigation scholarship. Even though over half of the domestic rights-based climate lawsuits filed in Latin American countries as of mid-2022 invoked the right to health—and almost a third did so with the right to life—there is a lack of research on whether and how the NLAC's transformative potential to structurally tackle socioeconomic challenges is being used to redress the contexts of poverty that exacerbate people's health vulnerability.

To address such a knowledge gap, Thalia Viveros-Uehara will scrutinize the use and significance of the fundamental rights to life and health in constitutional climate lawsuits filed in Latin American jurisdictions. By taking the normative synergies between both rights in the context of Latin America's transformative constitutionalism as points of departure, she will doctrinally and comparatively analyze how they overlap with climate change law in establishing state responsibility and corresponding remedies for acts and omissions threatening people's lives and health. The presentation will thus treat climate litigation as a strategic endeavor to limit the global temperature from warming beyond 1.5°C taking into account the region's broader socioeconomic challenges that enhance health-related vulnerability to climate change.



Thalia Viveros-Uehara is a Doctoral Candidate at the University of Massachusetts Boston. She holds a MSc in Environmental Policy and Regulation from the London School of Economics and Political Science and a Diploma in Human Rights Law from the European University Institute. Her doctoral research focuses on the right to health and vulnerable populations in climate litigation within the context of Latin America's transformative constitutionalism. She is currently a Graduate Researcher at the Boston Human Rights Commission and a visiting scholar at the Max Planck Institute for Comparative Public Law and International Law.

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