

ONE NORM, TWO MODELS.

LEGAL ENFORCEMENT OF HUMAN RIGHTS IN MEXICO AND THE UNITED STATES.

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ABSTRACT. In the 21st century, the international community has assumed the responsibility of protecting individuals and groups from unlawful human rights abuse. This article analyzes the political tensions faced by domestic courts when they attempt to enforce international human rights norms. After presenting divergent models, it analyzes how multilateral norms relate to both the nation's domestic law and its foreign policy. It then examines two models of human rights enforcement, followed by a comparison of the Mexican and U.S. models. This comparison shows that although both countries presented different approaches (one from within, USA; and one from the outside, Mexico) both of them enforce the norm of international responsibility to protect.

KEYWORDS: Legal enforcement of human rights, Human rights politics, Domestic judiciaries, Mexico, U.S.A.

RESUMEN. Hoy los derechos humanos son una política global sustentada en la responsabilidad de la comunidad internacional de proteger a personas y grupos de abusos. Una de las políticas para hacerla efectiva ha sido el legal enforcement. Este artículo analiza las tensiones políticas que enfrentan los poderes judiciales domésticos cuando asumen la responsabilidad de proteger derechos humanos en la medida en que los ubica como actores no sólo de la política doméstica sino también de la internacional. Poniendo el énfasis en diferentes líneas de política judicial que pueden tener lugar, en primer término se analizan los vínculos entre las diferentes jurisdicciones legales de derechos humanos mostrando la importancia estratégica de los poderes judiciales domésticos y en segundo lugar se analizan dos modelos de legal enforcement de derechos humanos el de México y el de Estados Unidos de los

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que se sostiene que si bien son diferentes constituyen formas de hacer efectiva la regla de la responsabilidad internacional de protección una desde adentro y otra desde afuera respectivamente, evidenciando las tensiones políticas que deben enfrentar en estos escenarios.

PALABRAS CLAVE. Aplicación de normas legales de derechos humanos, Política de Derechos Humanos, Poderes judiciales, México, Estado Unidos de Norteamérica.

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I. INTRODUCTION

It is common to hear people discuss a “human rights revolution”. In practical terms, this refers to the adoption by domestic institutions of human rights standards that have already been developed by foreign governments, international agencies and organizations.² This article will focus on diverse human rights enforcement models, with special emphasis on two cases: Mexico and the United States. Its main goal is to analyze the underlying tensions between international norms and domestic judicial institutions and legal doctrines, and the scope of each branch of the government.

² See CHARLES R. BEITZ, *THE IDEA OF HUMAN RIGHTS* (Oxford University Press, 2011).

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