



LATIN AMERICA: Reinforcing democratic institutions to achieve peace, justice and inclusion

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Latin America has been deeply impacted by the COVID-19 pandemic. On a positive side, with a few notable exceptions, the region has avoided democratic breakdowns: electoral institutions have shown resilience, and states have been generally able to adapt to the new and unprecedented situation. In many cases, technology has played a central role in the response to the pandemic. At the same time, the pandemic has substantially exacerbated pre-existing negative trends of democratic erosion. State capacities have been significantly affected, social exclusion and marginalization have increased, and civic space is shrinking in some contexts. The pandemic has led to the region moving even further away from achieving SDG 16 in two inter-related ways: i) by starkly exposing and deepening state fragilities, and ii) by reinforcing divisive and polarized politics. This policy brief analyses the current status of SDG 16 in the region in light of the COVID-19 pandemic and calls for a rethink of the social contract to tackle the redistribution of power and opportunities both horizontally and vertically. This requires first, putting accountable, effective and responsive institutions grounded in the rule of law at the centre of “building forward better” from the pandemic, and second, generating incentives that foster cooperative and inclusive policy-making to put the region on track to achieve SDG 16.

Introduction

Since the adoption of the 2030 Agenda, Latin America, like other regions, has made insufficient progress towards the goal to “build just, peaceful and inclusive societies which provide accountable and effective institutions”. Indeed, by 2019 Latin America stood out as the world’s most unequal region, with the rule of law often weak in most of its countries (World Bank, 2019; World Justice Project, 2020). The process of democratic erosion that has been underway in recent years throughout the region further undermined progress on SDG 16 (Latinobarometro, 2018; Sapienza, 2020). The COVID-19 pandemic has exacerbated many of the negative trends already present in the region, raising new obstacles to the attainment of the sustainable development goals, including SDG 16 (UNDP, 2021).

The health and socio-economic impact of COVID-19 in Latin America continues to be significant. The region, which represents only 8% of the world’s population, has registered more than 30% of the world’s total deaths (ECLAC, 2021). Towards the end of 2021, however, despite the multiple challenges facing the region and the devastating impact of the

pandemic, Latin America has been relatively successful in its campaign to vaccinate its population, with approximately 63.3% of the population fully vaccinated (Slattery and Geist, 2021). COVID-19, however, continues to constitute a “protracted health crisis”, with significant investment needed in health systems to address the socio-economic disparities reflected in the infection and mortality rates (ECLAC, 2021).

The pandemic led to a significant drop in GDP of 7% in 2020, with 22 million more Latin Americans falling below the poverty line (Werner et al., 2021). The 33.7% poverty rate estimated by ECLAC for 2020 in the region represents the worst record in the last 12 years, while the 12.5% level of extreme poverty is the worst in the last 20 years. In 2021, the region experienced higher than expected growth of 6.2%, but 30% of the jobs lost in 2020 were not recuperated in 2021, and inequalities could continue to grow, with an expected deceleration of GDP growth in 2022 as well as significant rises in the cost of living (ECLAC, 2021). Additionally, while 47 million children resumed in-person learning in the region in 2021, two out of three children still remain out of school (UNICEF, 2021). These figures suggest that making progress on sustainable development, including SDG 16, will be a major challenge. It is urgent to rethink what is needed



to put SDG 16 on track in Latin America and how to avoid the failed strategies of the past.

This document aims to identify the main trends regarding SDG 16 and to make policy recommendations that contribute to achieving it. It shows how the COVID-19 crisis is deepening the region's existing crisis of democratic legitimacy. This erosion of democratic legitimacy is being fuelled by two inter-related factors that became apparent and intensified in the course of the pandemic: i) structural poor governance and state fragility, which can result in failure to deliver public services and to guarantee civil, political, economic and social rights; and ii) divisive and polarized political dynamics, which undermine consensus-based and inclusive decision-making processes.

This brief calls for urgent action to reverse these trends in order to push forward the establishment of more peaceful, just and inclusive institutions in the COVID-19 recovery period and beyond.

Emerging trends around SDG 16 in Latin America since the pandemic

In this section the major trends regarding SDG 16 and the pandemic are analysed, considering the following dimensions: i) Democracy, checks and balances, and rule of law; ii) Effective governance, transparency, gender equality and the reduction of violence; and iii) Inclusive and representative decision-making processes.

Resilient, but threatened, oversight mechanisms and the deteriorating rule of law

The outbreak of the COVID-19 pandemic and the subsequent state of emergency declared in many of the region's countries initially resulted in a concentration of power in the executive, as countries raced to put in place measures to curb the pandemic. Some observers warned that these measures would push forward an autocratic trend in the region (Lührmann et al., 2020). Other analysts, in contrast, underlined that the crisis could raise institutional alarms and invigorate efforts to put democratic limits on executive power, such as by legislatures, the judiciary and local governments (i.e. Levy Yeyati and Malamud, 2020).

More than a year later both arguments hold—partially—true. The majority of the region's countries have respected electoral processes and avoided democratic breakdowns. Elections

were mostly held in a relatively free and fair manner across the region, and the official results were eventually recognized by the relevant political actors, including in highly contested cases. The strength and capacities of electoral management bodies in the region have been critical to this achievement.

In that sense, as the V-Dem 2020 report claims, “the most pessimistic predictions did not materialize”, and only a few countries in the region saw the executive seek to more permanently centralize power. It appears that the pandemic has served more as an accelerant in a few countries where democratic backsliding was already underway rather than as a driver of wholesale autocratization across the entire region. In most countries, the executive did not become “unbound” in fighting the virus, and instead legislative and judicial oversight played an important role in holding the executive in check (Ginsburg and Versteeg, 2020). In some countries, courts have played a strong role in stopping the executive from overstepping constitutionally mandated provisions, and in others they have ruled against measures deemed to be disproportionate or a violation of human dignity.

Subnational governments have also been key actors in counterbalancing any executive overreach of authority. This has been the case especially in big federal countries, where federal and local authorities often had different perspectives on the measures that needed to be put in place to deal with the pandemic. In some countries, local authorities questioned the decisions of the central government to impose local lockdown measures or school closures, which required going to court to adjudicate the dispute and interpret constitutional powers (Murillo, 2020; Ginsburg and Versteeg, 2020:30).

Parliaments have also managed to fulfil their roles as legislators and oversight bodies. Some Congresses were particularly active in this regard, either maintaining face-to-face activities, as in the case of Uruguay, or immediately incorporating virtual sessions, as in the case of Brazil, where the Senate held what might have been the world's first completely virtual legislative session. In several other cases there were difficulties in resuming legislative activities after an initial paralysis during the lockdowns. In general, however, the legislative branches in Latin America have been flexible and adaptable to the new circumstances and continued fulfilling their critical functions (Abdala et al., 2020).

Despite the resilience of governance institutions in many countries, which staved off the worst outcomes, it is clear that the COVID-19 crisis has negatively impacted the rule of



law and the human rights situation in the region. Prior to the pandemic, there was already concern over the weakening of the rule of law in the region (World Justice Project 2020). The pandemic appears to have further deteriorated the situation where the “abusive enforcement” of measures, such as confinements, was widespread, and security actors resorted to excessive force to enforce emergency measures (V-Dem Institute, 2021).

Weak state capacities impacting delivery of services, especially for marginalized groups

When the COVID-19 crisis hit the region, there was an expectation that the role of the state would become more important and that it would return to centre stage as the main provider of public goods. However, the pandemic ended up laying bare multiple facets of what experts have long identified as structural weaknesses of the Latin American states (Brinks et al., 2019): poorly informed and arbitrary decision-making, inefficient and poorly prepared bureaucracies, weak coordination capacities, lack of transparency and accountability, rent-seeking and cronyism.

While no state in the world was fully prepared to face this cataclysm, poor governance, at least in part, explains why this region has been hit so hard by the pandemic (Hernández,

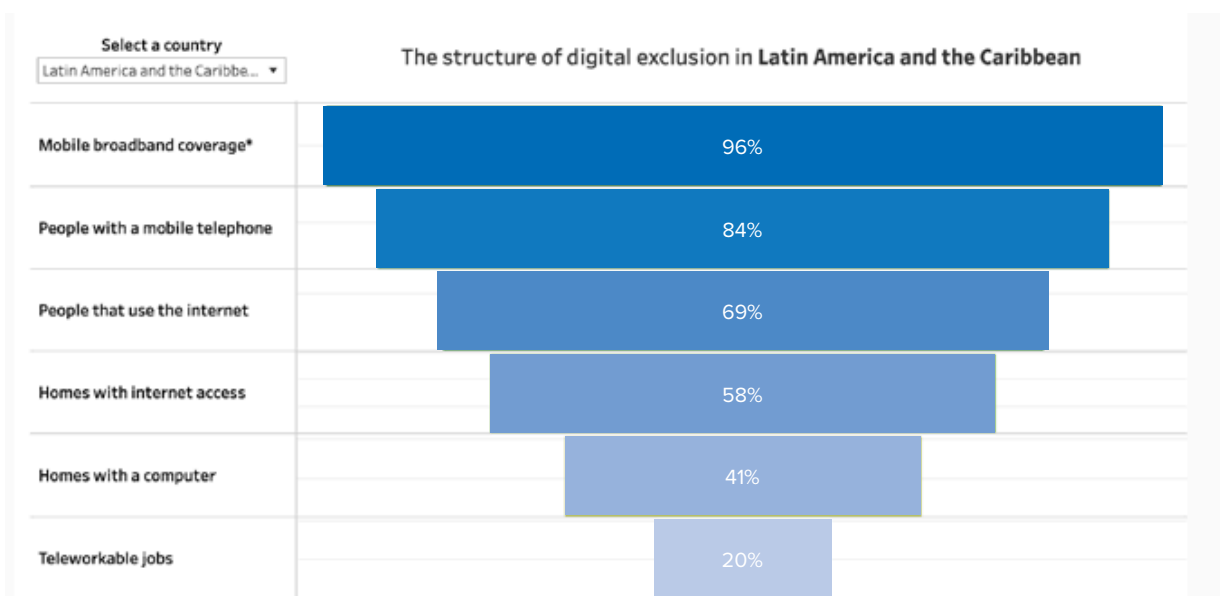
2021). Poor state performance has meant that vulnerable populations have suffered disproportionately and been even further disempowered. Unequal and ill-prepared health and welfare systems aggravated previously existing inequalities, and, beyond socio-economic factors, weak state capacity to deliver these services has had a wide-ranging impact on people’s lives, including on civil and political rights.

The digital gap in a time of crisis

Many Latin American governments have taken significant steps to carry out their own digital transformation, including by recreating their physical presence online. This digital transformation nevertheless also risks deepening the digital divide and aggravating other existing social inequalities. So even though many governments have made a commitment to open government initiatives (OECD et al., 2020), many of the challenges that affect states in the physical realm will also need to be addressed in the digital arena.

Lockdowns and curfews have meant that people are required to home-school or work remotely. However, this is a privilege of a few, especially when access to good quality digital services and education online is not available to all (see Figure 8). Political participation has also been undermined for those who lack quality digital resources. By 2019,

Figure 8: Digitalization in Latin America and the Caribbean takes the shape of an inverted pyramid, in which each step leaves millions of more people behind



Source: “You are on Mute”: Why internet access is not enough for ensuring inclusive digitalization in Latin America and the Caribbean (Lopez-Calva, 2021). https://www.latinamerica.undp.org/content/rblac/en/home/presscenter/director-s-graph-for-thought/_you-are-on-mute--because-internet-access-is-not-enough-for-the-htm



only 22.2% of Nicaraguans, 23.9% of Guatemalans and 25.1% of Hondurans had access to Internet service in their homes. Most other countries were not in a much better condition: the percentage is 37.5 for Peruvians, 42.1 for Bolivians and 45.7 for Mexicans (Zechmeister and Lupu, 2019). Under these circumstances, the digital gap should be conceived not just as a problem of inequality, but as a tool of social and political exclusion. Digital access impacts people's ability to be recognized as citizens and to exercise their fundamental rights. In the current context, the lack of access to quality digital services undermines access to information and participation in inclusive decision-making processes. In other words, without equitable access to technology and digital capabilities, it becomes increasingly difficult to advance on SDG 16.

Widening gender inequalities and increasing violence against women

During the last decades, many Latin American countries have had gender equality on their agendas and have adopted targeted social assistance measures and promoted gender-inclusive political representation. Yet government interventions in the context of the pandemic have often been limited, fragmentary and insufficient (Bergallo et al., 2021). The COVID-19 crisis has hit women harder in different ways. It has devastated feminized labour sectors, such as cleaning and caregiving. The comparatively high levels of informality of the labour market in general, and of these sectors in particular, make Latin American women especially vulnerable (UN Women, 2020). Women have also been disproportionately affected by the need to assume family care tasks as a consequence of school closures. This has resulted in many resigning from their jobs or facing an increased burden of juggling care tasks and their work at home. All in all, women's share of participation in the region's labour market dropped from 52% in 2019 to 46% in 2020 (CEPAL, 2021).

Finally, lockdown measures appear to have led to a rise of the "shadow pandemic" of domestic violence. In Latin America, the lifetime prevalence of intimate partner violence against women aged 15-49 was at 25% even before the onset of the pandemic (WHO, 2021). During the pandemic, data available on some specific countries show a noticeable increase in calls to domestic violence helplines, for example in Mexico, Chile, Argentina and Colombia (Mundosur, 2021; UNODC 2021). In other countries, there was an initial increase in calls when lockdown measures were put in place, but this fell back to pre-lockdown levels shortly afterwards. In addition, there was an increase in the gender-related killing of

women and girls in 2020, by 5% in South America and 3% in Central America, following an ascending trend in previous years (UNODC, 2021). While there is insufficient data on the extent to which COVID-19 confinement measures have directly resulted in an increase of gender-related violence, it is clear that the measures taken have enabled new forms of violence that mainly affect women. For example, an increasing number of domestic workers (mainly women) reported the imposition of illegal restrictions on their freedom of movement, as they were confined in their employers' homes in a form of quasi-servitude (OAS-CIM, 2020).

Increased opportunity for corruption and organized crime

Corruption is another major structural problem in Latin America, and most countries in the region (with the notable exception of Uruguay) do not perform well on transparency and anti-corruption measures. Even prior to the onset of COVID-19, the weakening of democratic institutions and the rise of populism in the region were hindering anti-corruption measures. Media manipulation and reduced checks on the executive, for example, have accelerated the erosion of the rule of law and undermined independent oversight mechanisms (TI, 2019).

The initial and temporary concentration of power in the early stage of lockdowns and its adverse consequences on accountability and control mechanisms created new opportunities for corruption. In Latin America, as with other regions, the urgent need to raise public expenditures and procure supplies in response to the pandemic led to multiple cases of embezzlement and the mismanagement of funds (Kitroeff and Taj, 2020). Political scandals emerged across the region, as corruption, the over-procurement of medical supplies and accusations of nepotism in the distribution of vaccines led to the resignations of officials, from local authorities to national ministers. Given the scarcity of vaccines in the region, their distribution has been a particularly volatile issue (BBC News, 2021).

The social and economic crisis resulting from the pandemic, along with these corruption scandals, has reinforced the perception of a distant state, captured by a privileged elite. As the gap between those in power and ordinary citizens grows, civil unrest has begun to erupt across the region. In 2020, for example, while four countries in the region recorded improvements in the Global Peace Index, six declined in their ranking, primarily due to an increase in violent



demonstrations (IEP, 2021). Increasing inequality and the precarious social and economic situation due to extended lockdowns have been met by protest movements. In Colombia, protests over the proposal for a tax reform in April 2021 resulted in the death of more than 60 people. The state's excessive use of force in responding to protests and demonstrations was also a significant factor in undermining peace in the region (IEP, 2021).

Finally, organized crime poses a mounting threat to good governance in the post-pandemic period. The presence of criminal groups controlling territories, many times in collusion with different levels of state authorities, has been long reported in various countries in the region (Briscoe et al., 2014). The situation of massive social exclusion as a result of the pandemic, along with corrupt and weak institutions, has provided criminal organizations optimal conditions to thrive.

Divisive politics is hindering inclusive and responsive decision-making

Power-sharing institutions as well as inclusive and cooperative decision-making processes are critical for democratic legitimacy and for the quality, stability and overall efficacy of public policies (Kittilson and Schwindt-Bayer, 2010). While there have always been challenges in promoting inclusive policy-making processes in Latin America, the emergency situation has eliminated any progress made in this area.

Between March and April 2020, a “rallying around the flag” effect was present in several countries, as national governments enjoyed high levels of approval. This spirit of cooperation did not last long. To the contrary, as Carothers and Feldmann (2021) note, public policy to deal with the emergency constituted “not just another major policy issue to fight over, but the driver of deeper divisions”. All in all, the pandemic has accelerated the confrontational political dynamics that were already escalating in the region before the pandemic.

While some polarization is inherent to the democratic system, and a moderate polarization is usually seen as beneficial for democratic equality (Somer and McCoy, 2018), there are both theoretical reasons and empirical evidence showing that high levels of political polarization are dangerous for democratic institutions (Casal Bértoa and Rama, 2021). Divisive politics seriously affect the quality of public policies by encouraging the concentration of power, the politicization of bureaucracies and the delegitimization of accountability

agencies (Xezonakis, 2012: 15). Extreme polarization also affects the overall legitimacy of key political decisions, which require agreement and consensus (McCoy, Rahman and Somer, 2018). It encourages the dissemination of disinformation, pollutes the civic sphere and undermines the possibility of civilized deliberation. Recent experiences have led experts to think of high levels of social and political polarization as the leading factor putting democracy at risk today (Ginsburg and Verstagen, 2020:49; Levitsky and Ziblatt, 2018).

A crisis like the one produced by the pandemic—spread over time and dispersed across the territory, disproportionately affecting in different ways specific geographic areas and groups—requires a response that is based on an inclusive process and addresses the priorities of the most marginalized populations. However, the quality of the political discourse and the relationship between state actors in many countries in the region have ended up being, at times, confrontational, divisive and polarized. Opposition groups in several countries vocally criticize the government for handling the crisis in an authoritarian manner, while governments often respond by claiming to be the only ones working for the common good (Malamud and Nuñez, 2021). This mutual delegitimization has accentuated polarization across Latin American political systems and also led to attacks on independent actors (such as courts, electoral bodies and media, among others). The overall consequence is the erosion of confidence in institutions and the delegitimization of the core functions of the state.

High levels of political polarization have hindered the chance to implement successful responses to the pandemic. Divisive politics have debilitated the already shaky state capacities in the region and fostered distrust of and cynicism about democratic institutions (Carothers and Feldmann, 2021:36). The combination of polarized and factional political dynamics along with weak state capacity has been identified in recent Latin American history as the source of a crisis of democratic legitimacy (Handlin, 2018). Polarization might initially galvanize and reinforce political identities, but when it coexists with a prolonged perception of state failure, there is a risk of political disaffection, cynicism and the erosion of democratic legitimacy.

Policy recommendations

SDG 16 is critical to “build forward better” from the pandemic. This brief has focused on state fragility and divisive



politics as two main trends that can take us further away from the path towards achieving SDG 16. These problems largely predated the onset of COVID-19, but the pandemic has exacerbated them and aggravated their effects.

Social exclusion accompanied by limited fiscal margins and weak state capacities are testing the strength of democratic institutions throughout Latin America. This is also reflected in the shrinking civic space across the region, as human rights defenders are targeted, and marginalized populations are further disempowered and denied their rights. Added to this is the extremely polarized and confrontational political climate, which is leading to the erosion of democratic legitimacy and trust in institutions, resulting in a weakening social contract.

Efforts to get back on track for SDG 16 should be focused on forging a new social contract and reversing the negative trends in the region. This calls for addressing the skewed balance of power and forging institutions that adhere to and uphold human rights.

The following policy priorities are organized around three major objectives:

Strengthening governance and the effectiveness of the rule of law

A responsive state that upholds the rule of law and human rights and effectively and equitably delivers services requires:

- **Investing in a more people-centred and responsive public service.** Avoiding politicization and polarization within the civil service must be a priority, and the focus must be on making the state and services more accessible to the population. Some areas for intervention include the increased digitalization of public services, accompanied by efforts to narrow the digital divide. Attention is also needed to making services accessible in terms of language and disability status, as well as reaching remote and marginalized populations in order to “leave no one behind”. Using a human rights-based approach, the state can seek to transform the public administration for a more “service-oriented approach” in order to broaden its reach and provide greater access and effectiveness in delivering services.
- **Strengthening internal and horizontal accountability and transparency mechanisms.** The independence

of oversight bodies needs to be upheld and their decisions enforced so as to hold all political and social actors accountable for their actions. This includes parliamentary oversight bodies and the judiciary, but also supreme audit institutions, anti-corruption bodies and national human rights institutions.

- **Closing the gender gap and putting women and girls on centre stage.** States must adopt consistent multi-dimensional policies to fight exclusion and inequality based on gender. A more inclusive society needs both to address women’s disadvantaged position in different and diverse aspects of social and political life, such as labour markets, education systems and political parties, and to expand their access to opportunities. This can be a critical means of also addressing gender-based violence, even while such violence needs to be tackled by specific measures as well.

Promoting inclusive and participatory decision-making processes to achieve legitimate and efficacious public policies

Participatory and inclusive policy-making processes are critical for the quality, legitimacy, stability and overall efficacy of public policy. This is crucial to strengthening democratic legitimacy. Consultative processes that are based on power-sharing and inclusive decision-making, while slower, may in the long run result in more sustainable policies and generate greater satisfaction with democracy (Anderson et al., 2005). Policies that can help facilitate this include:

- **Supporting legislatures that encourage consultations and public participation in decision-making processes** and seeking to forge consensus on the way forward. This can help counter the risk of the centralization of power that has emerged due to emergency regulations put in place during the pandemic.
- **Enhancing institutionalized coordination mechanisms** among multiple levels of government, based on transparent criteria, is also crucial in terms of both public policy legitimacy and efficacy.
- **Enforcing political finance reform.** While regulations are in place in many countries in the region on political financing, additional efforts are needed to enforce the regulations, as lack of transparency in political financing can undermine democratic legitimacy.



- **De-escalating polarization.** Working with political parties to support a more positive political engagement is necessary, avoiding opportunism and demagoguery. This includes committing to the values of mutual tolerance and rejecting both the delegitimization of the opposition and the attacking of independent institutions such as electoral management bodies.
- **Avoiding the diffusion and weaponization of disinformation.** Promoting and fuelling a vibrant public sphere that hosts a tolerant public debate is also key to upholding a social commitment to democracy and its legitimacy. Codes of conduct on disinformation and hate speech, with credible monitoring and enforcement mechanisms, can be developed to ensure that political parties adhere to them.
- **Encouraging civic engagement.** This includes promoting different voices and perspectives and encouraging participation in public discourse and debate among political parties and civil society. It is necessary to pay particular attention to populations in peripheral areas and to vulnerable populations, who are often excluded from participation in the public sphere. It will be important to take into account new forms of political participation in the age of new technologies and to be especially attentive to promoting the participation of women and youth.
- **The education system and the media** also have a critical role to play in presenting democracy as a pluralistic game in which **respect and tolerance** are essential.

Improving regional and global cooperation

The pandemic has reminded us just how small and interconnected the world is. Neither problems nor solutions can be isolated, because problems easily find a path to spread, and solutions that are isolated will not suffice. Latin American countries have in the last decades repeatedly expressed the goal of regional integration and created multiple regional institutions. However, there has been little done to develop the technical or functional cooperation necessary to deal

with global threats, such as the pandemic. When functional cooperation is most needed, Latin American states face this need in a mostly isolated, and thus inefficient, manner.

Latin American countries must focus on strategic cooperation with other states on issues of mutual interest where there is increasing interdependence, irrespective of the ideological orientation of their circumstantial leaders. Regional integration must include a strong functional and technical context to deal with a myriad of transnational issues, such as refugees and migration, medical research, supplies and vaccines, tax evasion, corruption, money laundering, organized crime and information pollution, among others. Likewise, regional financial cooperation should be strengthened as a major tool for economic development.

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