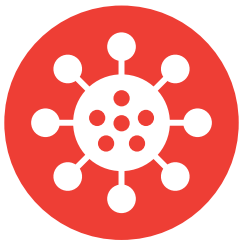




# The Global State of Democracy IN FOCUS

Special Brief, November 2020



## Taking Stock of Regional Democratic Trends in Latin America and the Caribbean Before and During the COVID-19 Pandemic

### Key facts and findings

- The COVID-19 pandemic has hit a Latin American and Caribbean region plagued by unresolved structural problems of high crime and violence, political fragmentation and polarization, high poverty and inequality, corruption, and weak states.
- Democratically, the region was ailing prior to the pandemic, with some countries suffering from democratic erosion or backsliding, others from democratic fragility and weakness. Overall, trust in democracy had been in steady decline in the decade preceding the pandemic, with citizen discontent culminating in a protest wave hitting several countries in the region at the end of 2019.
- Long-overdue political and socio-economic reforms in the region have compounded the health and economic crises caused by the pandemic. This, coupled with heavy-handed approaches to curb the virus, risk further entrenching or exacerbating the concerning democratic trends observed in the region prior to the COVID-19 outbreak.
- The challenges to democracy in the region during the pandemic include: the postponement of elections; excessive use of police force to enforce restrictions implemented to curb the pandemic; use of the military to carry out civil tasks; persistent crime and violence; new dangers for the right to privacy; increases in gender inequality and domestic violence; new risks posed to vulnerable groups; limited access to justice; restrictions on freedom of expression; executive overreach; reduced parliamentary oversight; political polarization and clashes between democratic institutions; new openings for corruption; and a discontented socially mobilized citizenry that shuns traditional forms of political representation.
- However, this overview also provides an opportunity to highlight some examples of democratic resilience and democratic innovation that have taken place during the pandemic.
- Despite the challenges, the crisis ultimately provides a historic opportunity to redefine the terms of social contracts across the region, and for governments to think innovatively about how to open up spaces for dialogue and civic participation in order to build more inclusive, sustainable and interconnected societies, as well as more accountable, transparent and efficient democratic systems of government.

## 1. Introduction

This issue of *GSoD In Focus* is a preliminary reflection offered by the International Institute for Democracy and Electoral Assistance (International IDEA) as input into the debate on the impact of COVID-19 on democracy in the Latin America and the Caribbean (LAC) region, 10 months into the pandemic. While identifying potential avenues of additional research and pinpointing some key issues for policymaking, it also offers international, regional and national policymakers and civil society organizations (the main target audience for this review) an open invitation to provide their own suggestions and ways in which these can best be addressed, to enrich the understanding of the multiple ongoing democratic transformations in the region under this unprecedented time in history. These external inputs will feed into the forthcoming *Global State of Democracy (GSoD)* report, planned for release in 2021.

At the end of 2019, International IDEA published its biennial global report [The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise](#) (International IDEA 2019). The report recognized the democratic transformation that the Latin America and the Caribbean region had undergone during the so-called third wave of democratization (Huntington 1991) from 1978 onwards, with notable advances in areas such as electoral integrity, gender equality, institution-building and civic mobilization. Prior to the outbreak of the COVID-19 pandemic in late February 2020, according to the GSoD Indices 2019 (International IDEA 2020b), the region<sup>1</sup> had the third-largest share of democracies after North America and Europe. Of the region's 19 democracies, all but 4<sup>2</sup> had remained democracies uninterruptedly. Moreover, the region was performing better than the rest of the world in aspects such as Electoral Participation and Freedom of Religion, and 7 countries in the region<sup>3</sup> had among the highest levels of electoral integrity in the world.

Despite this historic democratic transformation, the GSoD 2019 report also warned of uneven levels of democratic performance, a trend of democratic erosion, and democratic fragility, backsliding and breakdown in some countries in the region. The report urged governments in the region to address the severe challenges seen in some countries—corruption, high levels of crime and violence,

### About this *GSoD In Focus*

This *GSoD In Focus* provides a brief overview of the state of democracy of Latin America and the Caribbean at the end of 2019, prior to the outbreak of the pandemic, and assesses some of the preliminary impacts that the pandemic has had on democracy in the region in 2020. This overview is part of a series of 5 *GSoD In Focus* that provides this analysis globally and for several regions of the world (Africa and the Middle East, Asia and the Pacific, and Europe). It serves as an interim analysis in the gap year of International IDEA's *Global State of Democracy Report*, which is published biennially, with the next issue scheduled for the end of 2021.

The pre-pandemic democracy assessment (section 1) is based on the GSoD Indices with data from 2019 (see section 1). The GSoD Indices are built around a [conceptual framework](#) of democracy developed by International IDEA and which centres on 5 core attributes considered essential for healthy democracies: (1) Representative Government; (2) Fundamental Rights; (3) Checks on Government; (4) Impartial Administration; and (5) Participatory Engagement. The GSoD Indices 2019 offer a valuable baseline for understanding the pre-pandemic democratic context. However, given the disruptive nature of the COVID-19 pandemic and the responses by governments to contain the spread of the coronavirus, it is likely that the democratic status of some countries in the region will have changed as a result of more recent developments. Such changes will not be reflected in the GSoD Indices until the next update in 2021.

The review of the state of democracy during the COVID-19 pandemic in 2020 (section 2) is organized along these 5 attributes of democracy, and uses qualitative analysis and data of events and trends in the region collected through International IDEA's [Global Monitor of COVID-19's Impact on Democracy and Human Rights](#), an initiative co-funded by the European Union. The Global Monitor is a digital platform that tracks the democracy and human rights impacts of measures implemented to curb COVID-19 across 162 countries in the world. The Global Monitor is based on a [methodology](#) developed by International IDEA, and uses secondary sources and information from other trackers (International IDEA n.d.). While the data in this brief reflects the situation in Latin America and the Caribbean at the end of October 2020, for monthly updated information and data, visit the [COVID-19 Global Monitor summary for LAC](#).

large socio-economic inequalities, increasing political polarization, the crisis in representation of political parties, threats to electoral integrity and weakened judicial independence, among others—in order to rebuild citizen trust in democracy, which has been in steady decline over the past decade (Zechmeister and Lupu 2019).

Prior to the outbreak of the pandemic, the region also faced economic challenges that had compounded citizen frustration. These included slow economic growth, high levels of public debt and limited fiscal space, which had limited governments' ability to provide quality public services, to reduce inequalities and to facilitate social mobility (ECLAC 2019). Citizen frustration with democracy in Latin America and the Caribbean culminated in a protest wave hitting several countries in the region at the end of 2019. While ignited by specific economic decisions, the protests illustrated the deep discontent felt about the highly inequitable and weakly accountable socio-economic models created in many of the democracies in the region over the past decades. The region, therefore, entered a new decade with complex socio-economic and governance challenges (Zovatto 2020).

It is amid these socio-economic and political challenges that, in late February 2020, the COVID-19 pandemic hit Latin America, with the first confirmed case of the virus recorded in Brazil (Rodríguez-Morales et al. 2020). As this brief will show, the pandemic has hit a region plagued by unresolved structural social, economic and political problems which have had serious consequences for the rights and lives of people, as well as for the legitimacy of democratic institutions during the pandemic. Moreover, some of the region's democratic and socio-economic advances of the past decades have been severely disrupted by the pandemic and are at risk of reversing.

While it is too early to reach definitive conclusions, the last 10 months provide reason for concern about deepening autocratization in countries that were already non-democratic prior to the pandemic. There are also concerns about executive overreach and trampling of democratic rights and fundamental freedoms in both declining and weak democracies in the region, but also in some democracies in the mid-range of performance. However, this analysis also provides an opportunity to highlight some examples of democratic resilience and democratic innovation that have taken place during the pandemic (see section 2.2).

This *GSoD In Focus* aims at providing a brief overview of the state of democracy in Latin America and the Caribbean at the end of 2019, prior to the outbreak of the pandemic, and assessing some of the preliminary impacts that the pandemic has had on democracy in the region in the last 10 months. The first section of this brief provides a succinct overview of the democratic landscape in Latin America and the Caribbean based on the GSoD Indices 2019 (International IDEA 2020b). The second section is divided into 2 subsections, addressing first challenges and then opportunities for democracy during the COVID-19 pandemic. Some of these are the result of measures implemented to curb the COVID-19 pandemic and others are developments that cannot be directly attributable to the pandemic, but that have impacted democracy in the region during this time.

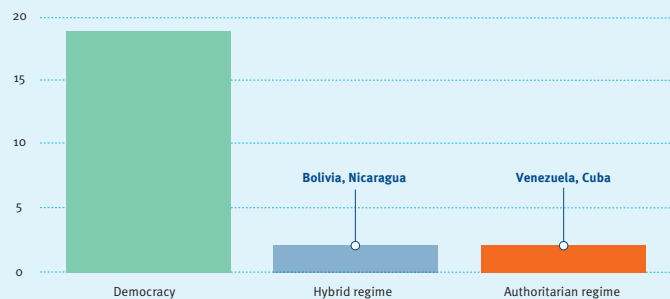
The events and country cases mentioned throughout the brief are illustrative and do not intend to be exhaustive. Likewise, given the fluidity of the situation since March 2020 and the rapid pace of change of measures, some of the events mentioned here may yet have changed by the time of publication. However, it is still valuable to show the evolving nature of the pandemic response and its preliminary impact on democracy in the Latin America and the Caribbean region during this historic time.

## The democratic landscape in Latin America and the Caribbean prior to the COVID-19 pandemic

### Positive developments

Latin America and the Caribbean is a region dominated by democracies (Figure 1). In 2019, the region had the third-largest share of democracies<sup>4</sup> (83 per cent), after North America (100 per cent) and Europe (91 per cent).

**FIGURE 1**  
Regime types in Latin America and the Caribbean (2019)



Source: International IDEA, The Global State of Democracy Indices, 1975–2019, 2020b, accessed 19 October 2020.

- **The democracies in the region have proven resilient.** Of the 6 countries that were democracies in 1977, 5 (Barbados, Colombia, Costa Rica, Jamaica, and Trinidad and Tobago) have remained democracies uninterrupted. Among the 16 countries that transitioned to democracy after 1977, almost two thirds have remained democracies without interruptions.
- **Latin America and the Caribbean had a heterogeneous democratic landscape prior to the pandemic, with some democracies in the higher range of performance.** Of the top 5 countries in the world with the highest levels of Representative Government, 3 (Chile, Costa Rica and Uruguay) were in Latin America. Uruguay was the only country with high democratic quality across all its attributes. Costa Rica, Chile and Jamaica scored highly on 4 of the 5 attributes. The democratic performance of these 4 countries is also high compared with the rest of the world—they all scored among the top 25 per cent in the world on Representative Government, Fundamental Rights, Checks on Government and, with the exception of Jamaica, Impartial Administration.
- **Competitive, free and fair elections were the norm in the region until COVID-19 broke out.** Most countries in the region—except Bolivia (in 2019), Cuba, Nicaragua and Venezuela—commit to competitive, periodic, free, fair and clean elections as the main channel for electing their governments. Electoral norms and practices in many countries in the region were of a high democratic calibre, with 6 countries (Barbados, Chile, Costa Rica, Jamaica, Panama and Uruguay) placed among the top 25 per cent in the world. With the exception of the 2019 elections in Bolivia, the 2018 elections in Venezuela, the 2017 presidential elections in Honduras, and the 2016 elections in Nicaragua (which were viewed as marred by irregularities), all other elections from 2016 to 2019 were considered largely free from irregularities and fair. Latin America and the Caribbean also recorded the highest levels

of voter turnout in the world, equal with Asia and the Pacific, at 66 per cent (compared with 62 per cent for Europe and 55 per cent for North America).

- The best-performing aspects of Latin American democracy compared with the rest of the world were **Electoral Participation** (or voter turnout, which was at the highest level in the world, equal with Asia and the Pacific), and **Freedom of Religion** (on which measure the region scored higher than Europe). On all other aspects of democracy, Latin America and the Caribbean performed third best, after North America and Europe.
- Latin America and the Caribbean is the region with the most advances in the GSoD aspect of **Gender Equality** in the past decades. Together with Europe, the region has the highest representation of women in parliament, averaging 31 per cent, which is above the world average of 25 per cent (IPU 2020).
- **The expansion of political freedoms in the region has led to an increasingly empowered citizenship.** Citizen movements against corruption (in Brazil, Guatemala, Honduras) and against the removal of fuel subsidies (Ecuador), as well as massive protests opposing economic policies and inequalities (Chile, Colombia), have hit the region in recent years. By providing forums for new voices and bringing in new issues, these movements have helped to democratize—and significantly reshape—the public agenda in Latin America and the Caribbean. The region was beset by a wave of protests at the end of 2019, where citizens poured out on the streets to protest against increasing inequalities and unjust societies, and to demand better democracy.

### Challenges to democracy

- **Democratic performance patterns and the quality of democracy varied widely between democracies in the region pre-COVID-19.** The pandemic hit a region with uneven levels of democratic performance, with only 1 democracy (Uruguay) recording high performance across all 5 attributes of democracy, down from 2 in 2018, as Trinidad and Tobago regressed to a mid-range democracy. In 2019, the largest share of democracies in the region were mid-range. The region also hosted 4 weak democracies: Dominican Republic, Guatemala and Honduras, recording low performance on 1 attribute of democracy; and Haiti, a very weak democracy. Of these weak democracies, 3 (not Guatemala) are also fragile democracies—in that they have suffered from undemocratic interruptions in the past 4 decades—as is Peru.
- **Prior to the COVID-19 pandemic, the region hosted 2 hybrid regimes (Bolivia and Nicaragua<sup>5</sup>) and 2 authoritarian regimes (Cuba and Venezuela).** Nicaragua and Venezuela have suffered from severe democratic backsliding in the past decades, resulting in democratic breakdown. From 2005 onwards, Nicaragua’s checks on government

gradually deteriorated, finally backsliding into a hybrid regime in 2016. Venezuela backslid to a hybrid regime in 2008–2016 before undergoing a full democratic breakdown in 2017. In both countries, the backsliding process has been gradual. Similarities include the use of constitutional revisions to abolish presidential term limits, the expansion of executive power over the legislature, weakened checks on government and judicial independence, and crackdowns on media and civil society.

- **Bolivia regressed into a hybrid regime in 2019 but returned to its democratic path after the elections in 2020<sup>6</sup>.** The October 2019 elections were denounced as fraudulent by the Organization of American States (OAS), President Evo Morales went into exile and an interim government was installed. This marked the final stage of a gradual process of democratic deterioration, marked by the weakening of the rule of law and judicial independence. In 2017, a Constitutional Court ruling eliminated term limits for all political offices. This ruling, in turn, contradicted the results of the constitutional referendum of February 2016, in which a majority of Bolivians rejected a proposal that would allow Evo Morales to run for a fourth mandate. Bolivia, Nicaragua and Venezuela have all eliminated presidential term limits too. However, the October 2020 elections have put Bolivia back on a democratic path, albeit fraught with fragility and a highly polarized political context.
- **Cuba is the only country in the region not to have undergone a democratic transition since 1975 and has persisted as an authoritarian regime for the past 4 decades.** The country has maintained close political and economic ties with other non-democratic regimes of the region, especially Venezuela and Nicaragua.
- **The region suffers from the largest asymmetries in income and land distribution in the world, which has translated into highly unequal access to political power.** Democracies in Latin America and the Caribbean perform particularly poorly in access to political power by different social groups. One third (35 per cent) of countries in Latin America and the Caribbean have low levels of Social Group Equality.
- **The region has among the highest levels of crime and violence in the world, topping the list of countries with the highest homicides rates**

(UNODC 2019). Despite significant advances in economic and human development, high levels of crime and violence produce feelings of insecurity, which can fuel fear among citizens and frustration over the state's inability to provide public security, and which in turn negatively impacts on citizen trust in democracy (Casas-Zamora 2013).

- **The lack of support for democracy has also been fed by the high levels of corruption in the region.** One third (35 per cent) of countries in the region have high levels of corruption and 7 countries in the region are among the 25 per cent most corrupt countries in the world.
- **Political parties in Latin America have suffered from a deep crisis of representation prior to the outbreak of the pandemic.** This crisis derived from their difficulty in adapting to societal transformation and the increasing expectations of a middle-class population let down by a lack of delivery on reducing corruption and inequalities. It had pushed voters in some countries away from traditional parties towards anti-establishment leaders.
- **Like other parts of the world, Latin America and the Caribbean has also experienced a shrinking of civic and media space in recent years.** This includes countries that experience shrinking civic space as part of a general democratic breakdown (Venezuela and Nicaragua) as well as those experiencing different degrees of democratic erosion, and which have restricted the space for civil society or the media through specific regulatory measures that affect the right to protest, as well as media freedom.
- **Prior to the pandemic, the region was also facing new challenges, such as migration.** Migration was driven, in part, by democratic breakdown in Venezuela and Nicaragua, as well as a less porous border between Mexico and the United States, which diverted migration flows from Central America to the rest of the region.
- **There was a marked decline in the support for democracy across the region prior to the pandemic.** Public opinion surveys showed a 12-percentage-point drop in support for democracy over the last decade, from 70 per cent in 2008 to 58 per cent in 2017, with close to a 9-percentage-point decline in the last 3 years alone (Latinobarómetro 2018).

Sources: International IDEA, *The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise* (2019); International IDEA, *The Global State of Democracy Indices, 1975–2019* (2020b).

## 2. Democracy during the COVID-19 pandemic: challenges and opportunities

By the end of October 2020, the COVID-19 pandemic had affected Latin America and the Caribbean more seriously than any region in the world, with more than 390,000 recorded deaths (Statista 2020). As in many regions around the world, governments declared states of emergency (SoEs)<sup>7</sup> to enact exceptional measures to contain the spread of COVID-19, enabling increased decision-making authority for executives and the suspension of some democratic rights and freedoms (see Box 1). The police—and in some cases the armed forces—have been used to enforce lockdowns, curfews and mandatory quarantines, awakening old fears of police and military abuse. States have spent large amounts of money to contain unemployment, equip hospitals and provide sanitary kits, triggering renewed debate about the importance of public and universal healthcare in the region.



BOX 1

States of emergency in Latin America and the Caribbean during the COVID-19 pandemic

As a response to the pandemic, all countries except 3 (Cuba, Nicaragua, and Trinidad and Tobago) have declared states of emergency (SoEs) to curb the pandemic, making Latin America and the Caribbean the region with the largest share of countries declaring an SoE during the COVID-19 pandemic. This follows the global pattern where a significantly larger share of democracies (71 per cent) declared an SoE, compared with non-democratic regimes (42 per cent).

**FIGURE 2**  
**States of emergency across the region (March–November 2020)**



**Source:** International IDEA, *Global Monitor of COVID-19’s impact on Democracy and Human Rights, 2020a*, accessed 19 October 2020.

**Note:** The map shows the countries in the LAC region that declared a state of emergency (to curb COVID-19) at any point between March and November 2020.

There is no uniformity in the name and scope of SoEs in the region. Terms such as ‘emergency’, ‘exception’, ‘suspension’ and ‘calamity’ reflect different legal instruments depending on the constitutional framework of each country. Among other terms used across the region, in Argentina, the government declared a ‘sanitary emergency’; in Chile, a ‘state of constitutional exception of catastrophe due to public calamity’; in Guatemala, a ‘state of public calamity’; in Mexico, a ‘sanitary emergency due to force majeure’; in Colombia, an ‘economic, social and environmental emergency’; and in Jamaica, the government declared the country a ‘disaster zone’ (International IDEA 2020a).

The International Covenant on Civil and Political Rights, in its English version, uses the terms ‘public emergency’ and ‘derogation’ (article 4) with regards to SoEs, while the Spanish version uses the terms *situaciones excepcionales* (‘exceptional situations’) and *suspensión* (‘suspension’) (article 4).

There is also great diversity in the motives and procedures used to declare SoEs, the formalities they entail, and the official organs authorized to declare, execute and even review them (Fix-Zamudio 2004: 858). Despite these differences, 2 interlinked factors have prompted a de facto harmonization on SoEs in the region in the past decades: firstly, an increasing judicialization, which has opened the door for courts—particularly constitutional courts—to review declarations of SoEs; and secondly, an increasing influence and application in domestic legal orders of international law regulating SoEs, given its superior legal status and the courts’ competence to use it as a parameter of constitutionality (Fix-Zamudio 2004: 858). Indeed, the legality and constitutionality of a majority of declarations of SoEs under the pandemic, alongside other issued regulations or actions carried out under their remit—most notably punitive measures such as lockdowns and curfews—have been challenged in courts by multiple actors. It is therefore expected that much of the debate in the region on the use of powers under SoEs will be influenced or settled by constitutional jurisprudence. Further analysis on the differences between declarations of SoEs across the region—including the development of a typology—and on the prominent role of courts, will be key to understanding the dynamics between governments and citizens under present and future SoEs.

Declarations of SoEs in the region point to an effort by authorities to limit civil liberties to curb the pandemic within constitutionally defined parameters. This has enabled all countries in the region to impose restrictions on movement and assembly (except Nicaragua). Ten countries in the region also imposed national or local lockdowns at some point during the pandemic (see Figure 2).

Over two thirds of countries in the region that declared an SoE specified an end date. Among the 10 countries in the world with the longest COVID-19-related SoEs, almost half (4) are Latin American: Argentina (expires in March 2021), and Brazil, Chile and Honduras (expire in December 2020). All countries in the region have extended their SoE at least once and the average length of the region’s SoEs is 212 days, well above the global average of 154 days.

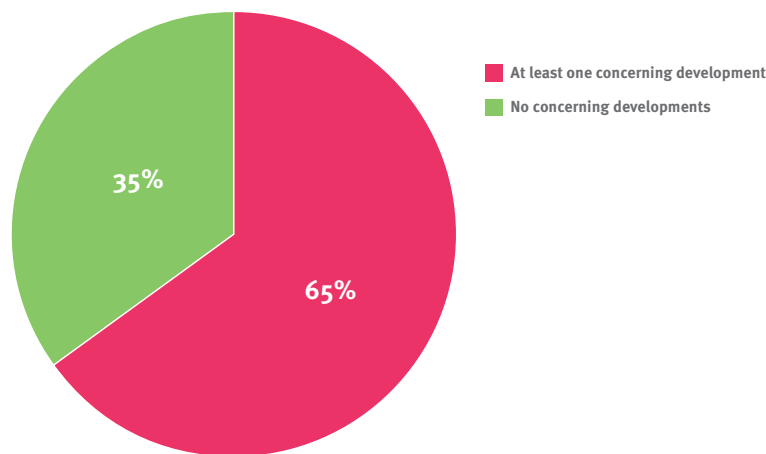
While globally, by end of October 2020, almost half (45 per cent) of the countries in the world had already lifted their SoEs, Latin America was the region with the largest share of SoEs still in place. Only Barbados, Ecuador, Guatemala, Haiti, and Mexico had lifted their SoEs. Dominican Republic lifted its SoE at the end of June 2020 but reinstated it in July after a surge in COVID-19 cases.

As in other regions, the pandemic has created an unprecedented multiplicity of parallel crises, with the effect of the pandemic compounded by measures to curb the spread of infection, such as national lockdowns, resulting in the most severe economic contraction that the world—and the region—has experienced since the Second World War (World Bank 2020). These concomitant crises risk further entrenching or exacerbating the worrying democratic trends observed in the region prior to the COVID-19 outbreak.

**Indeed, the Global Monitor shows that similar to the global trend, almost two thirds (65 per cent) of countries in the region have implemented measures to curb the pandemic that could be viewed as concerning from a democracy and human rights perspective** (see Figure 3). ‘Concerning’ developments or measures are defined as those that *violate* human rights or democratic benchmarks because they are either disproportionate, unnecessary, illegal or indefinite. Developments or measures that are ‘potentially concerning’ or ‘to watch’, on the other hand, *may lead to such violations* if enforced or maintained over time (for the full methodology see [International IDEA n.d.](#)).

**FIGURE 3**

**Share of countries with at least one concerning democratic development or none in LAC during the COVID-19 pandemic**



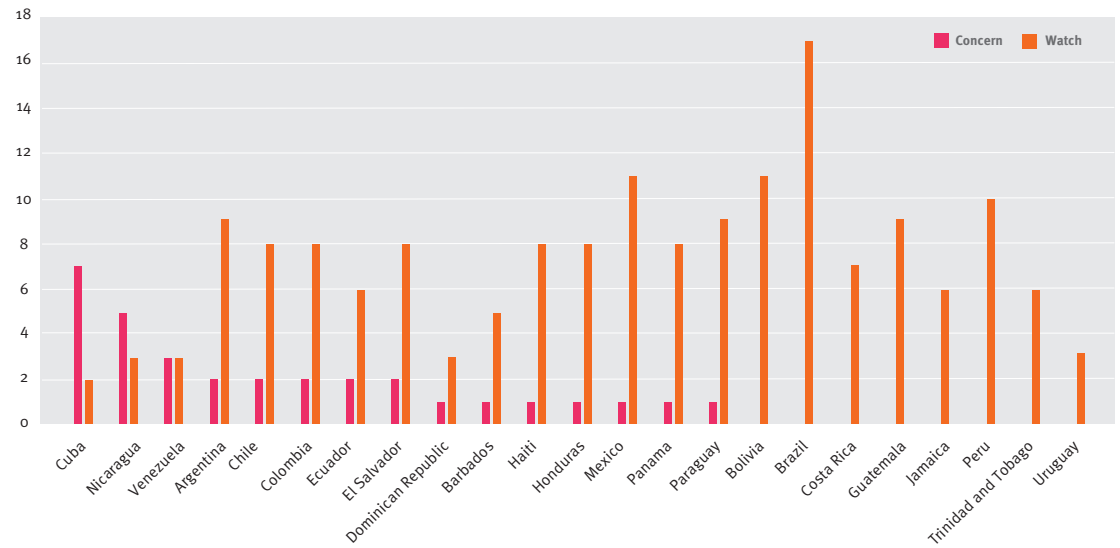
Source: International IDEA, *Global Monitor of COVID-19's Impact on Democracy and Human Rights*, 2020a, accessed 19 October 2020

**Not surprisingly, the non-democratic regimes in the region (Cuba, Nicaragua and Venezuela) had more than 3 times as many COVID-19-related measures and developments that presented concerns from a democracy and human rights perspective than the democracies, with the authoritarian regime of Cuba topping the list with 7 developments of concern** (see Figure 4). However, by the end of October 2020, more than half of the democracies in the region (12 out of 19) had also implemented measures that presented concerns from a democracy and human rights perspective.

The democracies with most concerns (2 each) include the mid-range democracies of Argentina, Chile, Colombia, Ecuador and El Salvador. Countries with 1 aspect of concern include the mid-range democracies of Barbados, Mexico, Panama and Paraguay, and the weak democracies of Dominican Republic, Haiti and Honduras. The democracy with the most measures to be watched is Brazil, followed by Mexico and Peru. The countries with no developments of concern and least aspects to watch were the high-performing democracy of Uruguay, followed by the mid-range democracies of Costa Rica, Jamaica, and Trinidad and Tobago.

FIGURE 4

Number of measures ‘of concern’ and ‘to watch’ by country in LAC during the COVID-19 pandemic

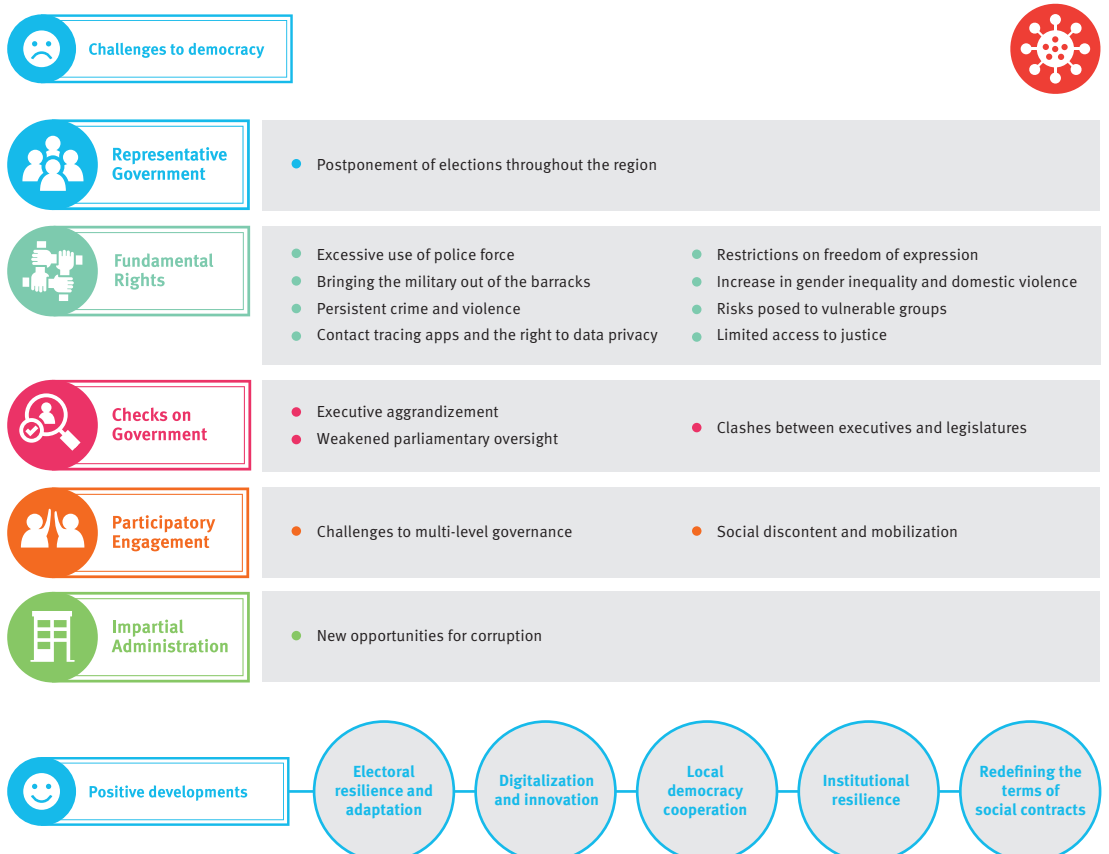


Source: International IDEA, Global Monitor of COVID-19’s Impact on Democracy and Human Rights, 2020a, accessed 19 October 2020.

However, despite the increasing challenges to democracy during the pandemic, citizens and democratic institutions have also fought back against anti-democratic temptations, as this review will show. International IDEA has identified 15 key challenges to and 5 key areas of opportunity for democracy during the COVID-19 pandemic (Figure 5).

FIGURE 5

Challenges and areas of opportunities for democracy in Latin America and the Caribbean under COVID-19 pandemic





 Challenges to democracy

**2.1. Challenges to democracy**

The following challenges to democracy during the COVID-19 pandemic have been identified and are organized around the 5 attributes of democracy of the Global State of Democracy conceptual framework: (1) Representative Government; (2) Fundamental Rights; (3) Checks on Government; (4) Impartial Administration; and (5) Participatory Engagement.

 Representative Government

**2.1.1. Representative Government**

**Challenge 1. Postponement of elections throughout the region**

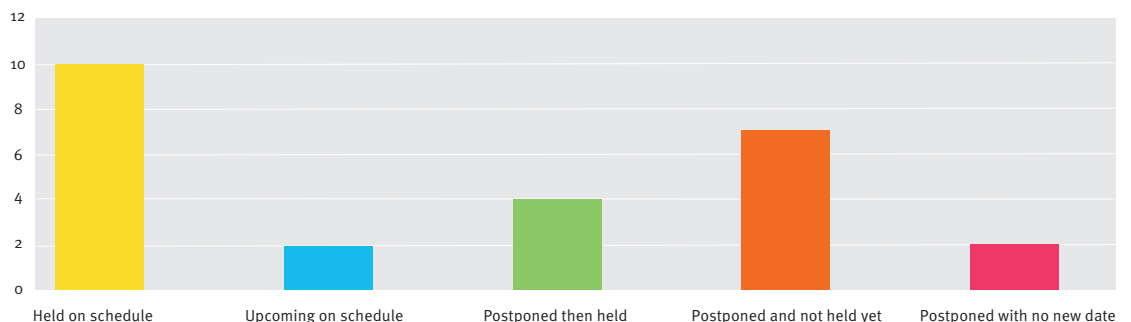
 Clean Elections

**The electoral landscape of the region has been severely disrupted, with almost half of electoral processes postponed due to the pandemic (see Figure 6).** The pandemic has affected 4 types of electoral processes in the region: presidential and parliamentary elections (whether held together or separately), local or regional elections, primary elections, and direct democracy instruments (referendums and plebiscites). A total of 25 electoral processes were originally scheduled to take place in 2020<sup>8</sup>. Of these, 10 have been held on schedule (general elections in Anguilla, Bermuda, Guyana, Jamaica, Suriname, St Kitts and Nevis, and Trinidad and Tobago, municipal elections in Dominican Republic, and primaries in Ecuador and El Salvador); 4 have been postponed then held (general elections in Dominican Republic and Bolivia, a national plebiscite in Chile, and departmental and municipal elections in Uruguay); 7 have been postponed and not held yet (subnational elections in Argentina, Brazil, Colombia, Mexico and Paraguay, and primaries in Paraguay and Peru); 2 have been postponed with new no new date (subnational elections at different levels in Bahamas and Peru); and 2 are upcoming on schedule (national elections in Belize and Venezuela)—see Table 1.

7 national elections have been held or are due to be held on schedule in Latin America and the Caribbean, while 3 were postponed and then held during the pandemic

**FIGURE 6**

**Elections in Latin America and the Caribbean during the COVID-19 pandemic**



Source: International IDEA, 'Global overview of COVID-19: Impact on elections' [multimedia report], 2020, accessed 20 October 2020.

TABLE 1

**Electoral processes held in Latin America and the Caribbean or to be held during the COVID-19 pandemic in 2020**

	National	Subnational	Primaries
<b>Held on schedule</b>	Anguilla, Bermuda, Guyana, Jamaica, Suriname, St Kitts and Nevis, Trinidad and Tobago	Dominican Republic	Ecuador, El Salvador
<b>Upcoming on schedule</b>	Belize, Venezuela (National Assembly)		
<b>Postponed then held</b>	Bolivia, Chile (constitutional plebiscite), Dominican Republic	Uruguay	
<b>Postponed and not held yet</b>		Argentina (municipality of Río Cuarto), Brazil, Colombia (Community Action Board elections), Mexico, Paraguay	Paraguay, Peru
<b>Postponed with no new date</b>		Bahamas, Peru (municipality of Chipao)	

Source: International IDEA, ‘Global overview of COVID-19: Impact on elections’ [multimedia report], 2020c, accessed 20 October 2020.

Note: The table includes other countries from the Caribbean that are not covered by the analysis of this brief. However, they are included in this table for informative purposes.

**While electoral postponement and rescheduling has had valid justifications in a pandemic context, it may also entail some risks for democracy**, most notably political or constitutional crises due to entrenchment in power of incumbent officials (or perceptions thereof), sudden changes in campaigning and voting protocols, potentially low voter turnout if elections proceed, and possible disenfranchisement of voters. Additionally, appropriate health and safety measures to hold elections can entail extra costs for electoral authorities.

**The pandemic has highlighted the need for special voting arrangements to allow safe voting.** Such measures can include postal voting or the possibility of staggering the election over several days. The region has been slow at adopting such arrangements, hence the considerable number of elections postponed, even if held later. Low levels of public trust in electoral authorities prior to the pandemic further exacerbate mistrust towards such special measures in the region. According to the Latin American Public Opinion Project (LAPOP), trust in electoral authorities declined from 63 per cent in 2004 to 45 per cent in 2019 (Zechmeister and Lupu 2019).

**Bolivia’s general elections and Chile’s constitutional plebiscite provide examples of the challenges of holding highly anticipated elections during a pandemic and the controversies that can ensue.** In the case of **Bolivia**, the elections that were annulled in November 2019 were rescheduled twice, with recriminations between government officials, political parties and civil society groups, and escalation of violence between competing groups. Even the Inter-American Commission on Human Rights (IACHR) had to intervene to call for dialogue and de-escalation of violence (IACHR 2019). The law that set 18 October 2020 as the latest possible date for the elections even made it a crime to attempt to delay the voting further. The elections were finally held successfully and without irregularities on 18 October 2020 (see Opportunity 1: Electoral resilience).

In the case of **Chile**’s constitutional plebiscite, the date was changed from 26 April to 25 October 2020. In late August, a law was passed to allow the Chilean national electoral service (Servel) to implement health and safety measures for the plebiscite. However, in late August, Servel confirmed

that citizens with COVID-19 would not be able to vote in the plebiscite, a decision that was opposed by civil society groups and which strained the relations between government officials and Servel. Limitations on campaigning also added strain to the plebiscite process (Montes 2020b; Servicio Electoral de Chile 2020). The plebiscite was held as planned on 25 October with high levels of voter turnout (see Opportunity 1: Electoral resilience).

Another controversial election which will go ahead on schedule is the elections to **Venezuela's** National Assembly in December 2020. In early August, 27 opposition parties announced they would not be taking part in the legislative election in the authoritarian regime, claiming that the government had eliminated all possibilities for a free and competitive election (National Assembly of Venezuela 2020a). The measure was supported by the National Assembly (National Assembly of Venezuela 2020b).

Another country deserving particular attention is **Haiti**, which has not had a parliament since 2019 due to factors unrelated to the pandemic. The credentials of former parliamentarians expired on 13 January 2020, after the elections scheduled for October 2019 were postponed indefinitely. For more than 10 months, President Moïse has been ruling by decree, including the appointment of a new prime minister on 4 March 2020. In September, the President appointed a Provisional Electoral Council to prepare for elections and for a constitutional referendum; however, no date has yet been set. The opposition considers the Council illegitimate (Lemaire 2020).

**In the case of subnational elections, 8 countries have postponed them during the pandemic:** Argentina, Bahamas, Brazil, Colombia, Mexico, Paraguay, Peru and Uruguay. Of these, departmental and municipal elections were successfully held in Uruguay on 27 September 2020 (see Opportunity 1: Electoral resilience). Although less likely to trigger nation-wide political crises, the postponement of subnational elections can create tensions with central government, especially in regions or municipalities where there is strong disagreement about measures to curb COVID-19.

**Finally, primary elections, while smaller in size, are important as they will be essential for the preservation of the electoral calendar in 2021.** During the pandemic, primary elections have been held on schedule in Ecuador and El Salvador, and postponed and rescheduled in Paraguay and Peru. The Peruvian open primaries scheduled for October 2020 were subsequently changed to be held under closed formats (whether by party members or delegates) and postponed until November and December 2020, depending on the voting format chosen (ONPE 2020).



### 2.1.2. Fundamental Rights

#### Challenge 1. Excessive use of police force



**Police forces throughout the region have been empowered to enforce mandatory quarantines, lockdowns and curfews during the pandemic** (see Box 2). While there are valid reasons to enforce those measures, particularly after a lawful declaration of SoE, the exceptional circumstances that these declarations create with regard to the suspension of certain rights and freedoms, create situations that can facilitate the use of excessive police force. In 13 countries in the region arrests have been made of people breaking lockdown or curfew measures, or there have been reports of alleged or confirmed instances of excessive use of police force in enforcing quarantine regulations ([International IDEA 2020a](#)). Another instance of concern is the use of excessive police force and violence against protesters. This has occurred to disperse peaceful protests against the government's measures to curb COVID-19 in countries such as Colombia and Ecuador (Vivanco 2020; Deutsche Welle 2020b).

In 13 countries in the region there have been reports of alleged or confirmed instances of excessive use of police force in enforcing quarantine regulations

The way in which prisons have been managed under the pandemic has also been problematic in most countries of the region. Prisoners in several countries have rioted against the precarious and overcrowded conditions of prisons that put them at risk during the pandemic (Bolivia, Brazil, Colombia, Ecuador, Peru and Venezuela). In the region, 17 countries have released prisoners to relieve overcrowding and reduce contagion (International IDEA 2020a).

#### BOX 2

#### Examples of excessive use of police force during the COVID-19 pandemic

In Brazil, one of the countries with the highest rates of violence in the world, Brazil's Supreme Court prohibited carrying out police raids in the favelas during the pandemic, unless previously authorized by the state's Public Prosecutor's Office. Despite this, raids have continued, resulting in numerous deaths (Sousa 2020). In El Salvador, the government instructed security forces to detain individuals who violate the isolation measures and bring them to 'containment centres' to be tested and potentially quarantined, although the Constitutional Chamber has repeatedly ruled that the government lacks the authority to order this. President Bukele has consistently defied the rulings. In mid-April 2020, Human Rights Watch expressed concern and reported that 4,236 people were being held in 87 containment centres, including some detained for violating the mandatory home quarantine and others after returning from abroad (Human Rights Watch 2020b).

8 countries in the region have used the military to manage the pandemic or to enforce COVID-19 related restrictions

#### Challenge 2. Bringing the military out of the barracks

**One development of particular concern for democracy in the region during the pandemic is having brought the military out of the barracks and into the streets.** At least 8 countries in the region have called on the military to manage certain aspects of the pandemic (see Figure 7). Countries have used the armed forces for support in areas such as logistics, transport, health capacities and contact tracing, but in some countries the armed forces have also been granted more controversial powers to maintain public order and implement restrictive measures on freedom of movement and assembly during states of siege, emergency and curfews.

In **Chile**, curfews and the deployment of the armed forces have become common since the mass protests that shook the country between October and December 2019. Due to the pandemic, Chile was under a curfew from the end of March until September 2020, with a ban on circulation between 22:00 and 05:00 hours. In **Colombia**, the government asked the military to support traditional police functions, while in **Brazil**, President Bolsonaro has appointed several current and former members of the army to his cabinet since he came to power at the end of 2018, including the position of Minister of Health, appointed during the pandemic (Harris and Schipani 2020). In **Mexico**, the military forces have been performing internal public security functions for several years, now reinforced through the use of the new National Guard. In late May 2020 in **Ecuador**, the Ministry of National Defence issued Ministerial Agreement 179, laying out a new set of rules for the 'progressive use of force' by military forces. The regulations provide for the use of force against gatherings, protests and 'other forms of internal violence'. In late June 2020, the Supreme Court of Ecuador preventively suspended the agreement, after a petition by the Ombudsman. The regulations were condemned by Ecuadorean and international human rights organizations (Human Rights Watch 2020c). Lastly, in **El Salvador** and **Nicaragua**, the executives are resorting to the armed forces to intimidate their political rivals under the guise of the pandemic (Zovatto and Bitar 2020).

In a region where public opinion polls already showed a high level of trust in the armed forces prior to the outbreak of the pandemic (higher than for political parties) (Latinobarómetro 2018), this may pose serious risks for democracy in the region. The potential repercussions that these new military functions may have for democracy need to be considered and the region needs to guard against viewing this new role as part of the 'new normal' after the pandemic is over. Clear limits

need to be placed on this role, ensuring civilian obedience and strict adherence to the rule of law and respect for human rights (Zovatto and Bitar 2020). Doing otherwise—granting the armed forces powers for law enforcement—opens the door to serious abuses (Human Rights Watch 2020c).

FIGURE 7

Confirmed or alleged excessive police or security force to enforce quarantine measures or use of military to manage pandemic



Source: International IDEA, Global Monitor of COVID-19’s Impact on Democracy and Human Rights, 2020a, accessed 19 October 2020.

Note: The map includes other countries from the Caribbean that are not covered by this overview, although they are included in this map for informative purposes.



### Challenge 3. Persistent crime and violence

**Drug trafficking and organized crime in places where the state has a weak presence seems to continue unabated during the pandemic.** Crime and violence in the region are underpinned by the operation of drug trafficking groups and drug cartels that produce, sell and transport drugs within and outside of the continent. If state weakness had already allowed these groups to operate, the pandemic has in some cases enabled these groups to substitute state functions, such as guaranteeing order and providing humanitarian assistance. Human Rights Watch has denounced brutal measures imposed by armed groups to fight the pandemic in areas lacking sufficient state presence (Human Rights Watch 2020d). For example, in **Brazil** criminal groups have imposed lockdowns, enforced quarantine measures and promoted health measures (Berg and Varsori 2020). Similar reports exist on gangs in **El Salvador** and dissidents from the former Fuerzas Armadas Revolucionarias (FARC) in **Colombia**, enforcing lockdown measures in territories under their control (Wilson 2020). In **Mexico**, drug cartels have taken on a humanitarian assistance role in some parts of the country, reportedly handing out food parcels on behalf of drug lords (Fajardo 2020).

As a region with persistently high homicide rates (UNODC 2019), crime and violence are likely to increase in the years to come as states find themselves in a constrained financial situation to fight organized crime vis-à-vis other needs to recover from the COVID-19 pandemic, with disastrous consequences for human rights and the legitimacy and stability of democratic institutions. The outlook is even more bleak when taking into account the high levels of unemployment that the region will experience, which will most likely lead to a rise in petty crime and turn some areas into a breeding ground for the recruitment of members to gangs and drug cartels.



### BOX 3

#### Data on crime and violence in Latin America during the pandemic

According to preliminary data from the early stages of the pandemic, Mexico registered 2,585 homicides in March, the highest monthly figure since 1997 (Agren 2020). A mix of police shortages and supply-and-demand shocks in drug markets has also prompted 'fresh waves' of violence in Brazil, Colombia and Mexico (Muggah 2020). In Colombia, as of late August, 46 massacres (defined as the murder of 3 or more people in a single event) and the murder of 100 social leaders and human rights activists have been registered during 2020 (Parkin 2020). In contrast, homicide rates dropped in El Salvador, a trend seen before the pandemic, most likely related to another set of security measures implemented by the government of President Bukele since 2019. Claims have emerged that officials from the Salvadorean Government have maintained negotiations with the MS-13 gang since June 2019 in order to reduce the number of homicides, something that President Bukele has strongly denied. Prosecutors in the country have started investigating the matter (Associated Press 2020).



At least **13** countries in the region have used contact tracing apps to trace infections of COVID-19 during the pandemic, of which Argentina is the only country that has made the use of the tracing app mandatory

#### Challenge 4. Contact tracing apps and the right to data privacy

Another area of concern for fundamental rights is the use of some contact tracing apps, especially those that allow for geolocation or that poorly protect private data. At least 13 countries in the region have used contact tracing apps or mobile data to trace contacts and infections of COVID-19 during the pandemic, of which Argentina is the only country that has made the use of the tracing app mandatory.

For example, in mid-March, in **Ecuador**, the SoE decree enabled the government to use digital tools to monitor individuals under mandatory isolation or quarantine, raising concerns about the proportionality of the measure and possible abusive uses (APC 2020). In **Brazil**, although the authorities have not developed an official app, state and municipal governments have developed their own apps from data legally gathered from mobile phone companies. Yet, there are concerns about the transparency of the data collected and the lack of legislation to protect private data (the General Data Protection Law approved in 2018 will only enter into force in May 2021) (The Privacy Advisor 2020). **Paraguay** and **Guatemala** do not operate with a specialized law either. In the latter, private information of people in quarantine was leaked from the Ministry of Health, which led people to deregister from the app, which was later deactivated (The Privacy Advisor 2020).

Deficiencies or contradictions in the private policies of the application set up in **Chile**, **Colombia**, **Costa Rica**, **Mexico**, **Panama**, and **Uruguay** have been identified (Scrollini et al. 2020; The Privacy Advisor 2020). In Peru, the National Authority for the Protection of Personal Data issued an opinion in early May on the treatment of personal data in workplaces, affirming some applicable principles such as proportionality, quality and security (The Privacy Advisor 2020).

The existence and strict enforcement of laws to protect private data, particularly those that guarantee transparency and that have established agencies exclusively dedicated to monitor and protect data privacy, will be key to avoid violations or mismanagement of people's private information resulting from the use of these apps, whether from governments or private companies or individuals. Regulation and permanent oversight of the use, management and storage of private information collected from these apps are essential to prevent present and future violations of the right to privacy.



### Challenge 5. Restrictions on freedom of expression

**Freedoms of expression and of the press have suffered numerous direct and indirect attacks and restrictions during the COVID-19 pandemic throughout the world and the same holds true in the Latin America and the Caribbean region.** Some examples of criminalization are the detention and sanctioning of journalists and doctors in Venezuela and Cuba. Examples of other restrictions include threats to investigate or dismiss scientists in academic or scientific institutions in Venezuela and Nicaragua, and the seizure of work equipment of journalists in Cuba (Civil Rights Defenders 2020). In Argentina, a dozen criminal proceedings for ‘public intimidation’ were reportedly initiated against individuals for spreading pandemic-related information. In Brazil, El Salvador, Guatemala, Mexico (the region’s most dangerous country for journalists according to Reporters Without Borders n.d.) and Nicaragua, journalists and media organizations have received verbal attacks from heads of state for reporting about the pandemic (Christie, Lanza and Camilleri 2020).

FIGURE 8

#### Countries in the region with restrictions on freedom of expression under or due to the COVID-19 pandemic



Source: International IDEA, Global Monitor of COVID-19’s Impact on Democracy and Human Rights, 2020a, accessed 19 October 2020.

The declaration of SoEs in some countries has worked as a vehicle to impose these and other restrictions, despite international law principles prohibiting the use of emergency powers for these purposes and warnings from human rights and international organizations. Although controlling contagion and the spread of false information are valid and necessary undertakings, criminalization, intimidation and attacks on freedom of expression and of the press are not the solution. On the contrary, they are likely to undermine already fragile controls on some governments of the region, particularly those exhibiting more authoritarian tendencies.



### Challenge 6. Increase in gender inequality and domestic violence

Another fundamental right that has been severely affected during the pandemic is gender equality. Prior to the pandemic, in the countries of the region for which data are available, women already spent between 22 and 42 hours a week on domestic, health and care work (ECLAC 2020a). Gender inequalities have been widening during the pandemic, with school closures and lockdowns increasing women’s burden of household work, adding to an already unbalanced share in domestic tasks between men and women in the region. This will likely affect women’s capacity to remain in the labour market, to campaign for office and to participate on equal terms in the economic and political sphere. Women’s work burden has also been affected by an increase in demand for health services due to the COVID-19 health crisis, a sector where women account for 72.8 per cent of employees, but whose income is 25 per cent lower than that of men in the same sector (ECLAC 2020a).

Domestic work represents on average between 10.5 per cent and 14.3 per cent of women’s employment in the region, but within which a large majority (77.5 per cent) operate in the informal sector (a percentage that exceeds 90 per cent on average in Central America and the Caribbean), without access to social protection (UN Women 2020b). As unemployment rises due to the pandemic, the lack of social protection networks is especially concerning for millions of women and their families.

The International Labour Organization (ILO) estimates that more than 70 per cent of domestic workers have been affected by quarantine measures, including decreased economic activity, unemployment, reduction of hours worked or loss of wages (UN Women 2020b). The Economic Commission for Latin America and the Caribbean (ECLAC) estimates that around 110 million women in the region will likely find themselves in a situation of poverty due to increasing unemployment (ECLAC 2020b).

**Women have also been affected by increases in domestic violence during the pandemic.**

While approximately 12 per cent (19.2 million) of women and girls between 15 and 49 years old had experienced physical or sexual violence prior to the pandemic, these numbers are likely to have increased during the pandemic, with several countries reporting surges in calls to domestic abuse hotlines during the lockdowns in the region (UN Women 2020a) (see Box 4).

**BOX 4**

**Domestic violence during the pandemic**

In Colombia, 12 femicides were reported between 20 March and 4 April 2020 and there was an increase of 51 per cent in cases of family violence; in Argentina, in the last weeks of March, there were reports of an increase of 39 per cent in daily calls to the gender-based violence helplines (UN Women 2020a). In Honduras, authorities reported in early September an increase of 16 per cent in emergency calls related to domestic violence during the pandemic (Government of the Republic of Honduras 2020) and in Paraguay the complaints on domestic violence during the quarantine increased by 78 per cent (Ministerio de la Mujer de Paraguay n.d.). In Mexico, June 2020 recorded the highest number of monthly femicides (99) in the year, reaching a total of 489 femicides by the first semester of 2020 (Arista 2020). Also, in Mexico, the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) reported in mid-July an increase of 60 per cent in domestic violence against women (Alcántara 2020). In Peru, 38 cases of femicide have been reported since mid-March, for a total of 75 from 1 January to 21 August. Calls to a national hotline for victims of domestic and sexual violence also skyrocketed between March and the end of July to 104,000, double the amount during the same period in 2019 (Godoy 2020).



**Challenge 7. Risks posed to vulnerable groups**

**The COVID-19 pandemic has had a particularly severe impact on vulnerable groups such as indigenous populations, Afro-descendant communities, immigrants, migrants and internally displaced people, and LGBTI (lesbian, gay, bisexual, transgender and intersex) people.** Given the magnitude of the health emergency and the ensuing economic crisis, if the special conditions and needs of these groups are not considered, they are likely to ‘fall between the cracks’ of health and humanitarian assistance programmes, as well as of measures to contain the spread of the virus and adapt to the ‘new normal’.

**Indigenous people and Afro-descendant populations have been disproportionately affected by the pandemic, in terms of both the number of infections and the fatality rates.** Such groups are more likely to live in areas with limited access to water and poor medical services, both critical in preventing contagion. With more limited access to information and communication technologies, they are also disproportionately affected by school closures, which have contributed to deepen their digital disadvantage. Lack of disaggregated COVID-related data on these groups also limits effective policy responses for supporting them. While in some countries these groups have been allowed to protect their communities from external intrusion to limit the spread of the virus, in others the government has denied them special protections (Box 5).

**Human rights organizations have also decried the fate of immigrants and internally displaced people during the pandemic, with poor access to healthcare and overcrowding in detention centres.** In Mexico, including on the border with the United States and Guatemala, human rights organizations have denounced the situation of detained migrants, citing overcrowding at detention centres and dire conditions for both adults and children (Human Rights Watch 2020a; Doctors Without Borders 2020; Menchu and Dwyer 2020). The Inter-American Court of Human Rights

concluded in July 2020 that **Panama** must improve care for migrants in Darien province shelters (Rodríguez 2020), and human rights organizations have warned about the risk for Venezuelans returning to their country from **Colombia** due to the pandemic, as they are often placed in forced quarantine in squalid conditions that risk spreading the virus further (Taraciuk and Page 2020).

**Finally, measures implemented by some governments in the region to curb the pandemic have infringed on the rights of LGBTI people.** In **Panama**, gender-based restrictions on movement have affected transgender groups, and an increase in harassment against this group has been reported during the pandemic (Mohan 2020). After human rights organizations denounced the situation, the government took steps to rectify the measures (Monteleone 2020). Similarly, in April, the Government of **Peru** adopted gender-based circulation restrictions that were later removed because they were deemed ineffective. Several episodes of violence and discrimination against transgender individuals have been reported (C. López 2020). Meanwhile in **Brazil**, civil society organizations published data in early September on transgender violence during the pandemic, with a 70 per cent increase in killings of transgender persons reported compared with 2019. By September 2020, the number of killings already exceeded the total in 2019 (O. Lopez 2020). In general, LGBTI people are also over-represented among the homeless and those living in poverty, and their access to health services may be limited because of discrimination or fears of violence or arrest (United Nations 2020).

#### BOX 5

#### Indigenous people and COVID-19

In mid-August 2020, Human Rights Watch and the Johns Hopkins Center for Humanitarian Health expressed concern over health conditions for the Wayuu indigenous group, the largest in **Colombia**, claiming that pandemic and lockdown measures are making it harder than ever for them to get adequate food, water and healthcare (Human Rights Watch 2020e). In **Brazil**, although a report published in June 2020 by indigenous rights and environmental groups found that COVID-19 infection rates among Amazon indigenous peoples were 84 per cent higher than the national average, and the mortality rate was 150 per cent higher, President Bolsonaro partially vetoed in early July a law providing measures to protect indigenous peoples. In early August, the Supreme Federal Court ratified a ruling ordering the Federal Government to take further action to protect the country's indigenous peoples from COVID-19 (Supremo Tribunal Federal 2020). In **Peru**, human rights groups have complained that the government does not publish disaggregated data allowing estimates of the toll of the pandemic on indigenous populations, which some groups put at around 10,000 infections and almost 400 deaths (EFE Agencia 2020b). In **Colombia** and **Mexico**, some indigenous populations have taken control of their territories to forbid the entrance of foreigners (CLACSO n.d.). In **Bolivia**, **Chile** and **Peru**, indigenous communities have adopted measures to protect their territories, sometimes in coordination with local governments, the police and the army (CLACSO n.d.). Indigenous people residing in rural and urban areas also face economic and linguistic exclusion (CLACSO n.d.; Bartlett 2020), with the latter posing serious risks to their health and safety in the context of a pandemic.

**Overall, poverty levels and socio-economic inequalities are expected to rise sharply in the region because of the pandemic, as a result of the restrictions, the global recession and rising levels of unemployment.** ECLAC estimates that poverty will rise at least 7.1 percentage points in 2020 in the region<sup>9</sup>, which represents an additional 45.4 million poor people (for a total of 230.9 million or 37 per cent of the region's population). Extreme poverty is expected to rise by 4.5 percentage points, equating to 28.5 million more people (for a total of 96.2 million people or 15.5 per cent of the region's population). Inequality in income distribution will also rise in the region, with ECLAC estimating an increase in the Gini coefficient with variations between 1 and 8 per cent (ECLAC 2020c). This will likely deepen social group inequalities, putting vulnerable groups at further risk.



70 per cent of countries in the region (16 countries) have experienced disruptions to their justice systems during the pandemic due to lockdowns and restrictions

## Challenge 8. Limited access to justice

Another fundamental right affected by the pandemic is access to justice, with the region's already constrained access to justice suffering severe strain during the pandemic. In more than two thirds of countries in the region, both the activity of courts and the population's access to justice have been limited due to the pandemic and lockdowns, in the form of either reduced working hours of courts, reduced number of caseloads, postponements of cases or complete closure of courts (International IDEA 2020a). This is particularly problematic at a time when governments are implementing punitive measures—lockdowns, curfews and mandatory quarantines—to contain the spread of COVID-19. The limited functioning of judiciaries is also concerning, considering the increases in domestic violence cases. Since judicial delays were already the norm in the region, further violations of the right to prompt and effective justice could be expected, as judiciaries deal with a backlog of cases. Future research and analysis in the region will be necessary to understand better the impact of the pandemic on the interruption of judicial services and access to justice.

Apart from the direct impact on rights resulting from the disruption of judicial services under the pandemic, debate has arisen on the use of digital technologies to provide this type of service. The lack of digital alternatives for all subjects or procedures is one of the main shortcomings for countries in the region; protocols for virtual audiences can be vague or non-existent, entailing risks for due process of law; both institutional and commercial technological tools are used, which increase cybersecurity and privacy risks; and rural communities and households with low connectivity can be left behind, limiting their access to justice (Arellano et al. 2020).



### 2.1.3. Checks on Government

#### Challenge 1. Executive aggrandizement

In a region already characterized by 'hyper-presidential' systems (International IDEA 2019: 137), the COVID-19 pandemic has prompted the declaration of states of emergency (SoEs) that by nature aggrandize the competences of executives while lessening ordinary controls (see Figure 2). Although, in principle, this aggrandizement is temporary and must follow a series of rules, the possibility to extend SoE, and in some cases the absence of an end date, increase the possibilities for abuse of authority, mismanagement of public funds and the implementation of populist policies to capitalize on popular support. For example, in Argentina, the pandemic has been managed largely through presidential decrees, with constitutional scholars and organizations such as Chatham House expressing concern that the president's emergency decrees have sidelined the Congress (Alonso 2020).

Concentration of decision-making in the executive is also occurring with regards to the management of public funds during the pandemic. According to a study conducted between April and May 2020, while in Brazil, Chile and El Salvador the parliaments have been involved in budgetary decisions during the pandemic, in Argentina, Colombia, Mexico and Peru the executive has been making those decisions by presidential decree (although in the case of Colombia there is a stronger oversight from the Constitutional Court) (Directorio Legislativo 2020). In Argentina, the opposition has also denounced the executive's excessive budgetary powers to modify the current budget (established by decree) without parliamentary control (Serra 2020). Executive aggrandizement with regards to the use of emergency funds risks favouring populist measures in fighting the economic consequences of the pandemic with the aim of gaining public support, which can have long-term consequences for the balance of power and the stability of public finances.





## Challenge 2. Weakened parliamentary oversight

**The measures implemented to curb the COVID-19 pandemic have greatly disrupted the functioning of parliaments.** This has had 3 direct consequences: firstly, weakened oversight of executive action; secondly, the suspension or delay of law-making processes; and thirdly, reduced standards of transparency and accountability to the population. While the first 2 were more prominent during the first stages of the pandemic and the implementation of strict lockdowns, the latter is still a concern given that parliaments have resumed some activities under new formats (Directorio Legislativo 2020: 3).

Although most parliaments in the region have continued functioning during the pandemic through the rapid deployment of new technological capabilities, they have done it by dedicating less time to discussions, changing consolidated protocols and procedures, and restricting interactions with citizens and civil society groups. Consequently, this has entailed lower standards of transparency, oversight and public participation than before the pandemic. From the early stages of the pandemic, the parliaments of Brazil, Chile, Ecuador and Paraguay have continued to meet virtually, while the ones of Argentina, Bolivia, Colombia, Honduras, Panama and Peru have done so in a less consistent way (Directorio Legislativo and ParlAmericas 2020).

While the rapid adaptation of most parliaments in the region to continue functioning during the pandemic—even if partially—is a good sign for democracy, the new practices in place for parliamentary work raise a series of questions: How will the citizen–representative relationship be affected by virtual interactions and how will this interaction look after the pandemic is over? Are these novel procedures constitutional as well as innovative? In early July, for example, the Constitutional Court of Colombia declared unconstitutional a Legislative Decree authorizing virtual sessions in all branches of government, including Congress, arguing that the decree was unnecessary and that it was the authorities themselves who should decide whether or not to have virtual sessions by amending their own procedures (Corte Constitucional de Colombia 2020). Further research and analysis expect to offer more insights of what effects these new ways of legislating could have for a ‘digital agora’ and the integrity of law-making procedures in the region.

## Challenge 3. Clashes between executives and legislatures

**The high fragmentation of political party systems in the region has played out in the form of frequent clashes between executives and legislatures in the region over the approval of COVID-19 related measures.** Governments have had to implement new assistance programmes to contain the rise of unemployment, address the health crisis, and declare SoEs, for which the approval of political parties in Congress has been necessary in most cases. However, multiple instances of clashes between the executive and legislature have put at risk the implementation of effective measures to manage the health crisis in the short term and the ensuing fiscal crises. Moreover, if courts and other organs are unable to mediate in or solve the stalemates, the chances of a political crisis turning into a constitutional one increase with serious consequences for the rule of law and social stability.

For example, in **Ecuador**, the legislature and the executive were in confrontation over the approval of an emergency finance law, which had been partially vetoed by President Moreno and had been the subject of tensions since mid-April (El Comercio 2020b). Similarly, the legislature and the executive clashed over the government’s proposed Organic Law of Humanitarian Support. Likewise, in **Bolivia**, in September, the executive and the legislature were locked in a confrontation over the approval of a loan from the International Monetary Fund (IMF) to help the government deal with the consequences of the pandemic. Clashes have also erupted between both branches regarding the

use of emergency powers and other measures to control the pandemic (Ministry of Economy and Public Finance of Bolivia 2020). In **Brazil**, President Bolsonaro vetoed in early July sections of a bill making the use of masks mandatory in public spaces, while in late August 2020 both chambers of Congress overturned several vetoes issued by President Bolsonaro on emergency measures to fight the pandemic (BBC News 2020a). And in **Peru**, the executive branch has partially vetoed a bill proposed by Congress to help cushion the economic impact of the pandemic (and threatened to take it to the Constitutional Court). The bill would allow the early withdrawal of pension funds (EFE Agencia 2020c).

Similar clashes have occurred between the executive and the legislature regarding financial matters in **Costa Rica**, where the parliament rejected an extraordinary budget bill on June 2020 that included additional resources for the country's programme to aid those affected by the economic consequences of COVID-19. In late September 2020, the Costa Rican Government's proposal to the IMF to access a USD 2.25 million loan to relieve its dire fiscal situation was rejected by all political parties in Congress and triggered street protests. The government withdrew the original proposal in early October as a result of political and social pressure and started a series of meetings with different sectors to reach an agreement (Córdoba 2020; Avendaño 2020).

In **Chile**, Congress approved in mid-July 2020 a constitutional reform allowing for an exceptional, one-time, withdrawal of up to 10 per cent of individual pension funds to help cope with the economic effects of the pandemic (Montes 2020a). Although the government opposed the measure, President Piñera enacted the law—after massive street protests—with majority support in Congress. In **El Salvador**, as of early September 2020, the executive and the legislature were confronted over the approval of international loans to finance the response to the pandemic (Government of El Salvador 2020).

**Equally concerning are confrontations between the executive and the legislature in the approval of declarations of SoEs.** One of the most worrying clashes has occurred in El Salvador, where President Bukele continues his confrontational stance against the legislature and courts. In mid-August 2020, the Constitutional Chamber of the Supreme Court ruled that the emergency law approved by Congress in June was constitutional and ordered President Bukele to sanction it (he had previously vetoed it). President Bukele said the ruling was a 'political act' (Fuentes and Campos 2020).



Impartial  
Administration

#### 2.1.4. Impartial Administration

##### Challenge 1. New opportunities for corruption



Absence of  
Corruption

**As a region already plagued by corruption, Latin America is after Asia and the Pacific the region in the world with the second highest share of countries with reported instances of corruption linked to the pandemic.** There have been alleged or confirmed instances of corruption related to COVID-19 in at least 8 countries in the region: Bolivia, Brazil, Ecuador, El Salvador, Honduras, Panama, Paraguay and Peru, most of them regarding irregularities in procurement processes and the payment of overpriced medical equipment (International IDEA 2020a).

For example, in **Bolivia**, the then Minister of Health was detained after it was revealed that the country had paid more than double the price for 170 ventilators inadequate for the required purpose (Miranda 2020). In **Brazil**, the Federal Public Prosecutor's Office announced in May 2020 that there were more than 400 open investigations in 11 states for irregularities in the acquisition of equipment and medical supplies (Folha Vitória 2020). In late August 2020, the Governor of Rio de Janeiro was suspended as part of a corruption probe investigating, among other allegations, illegal financial operations involving a field hospital to treat COVID-19 patients (Coletta 2020). In

There have been alleged or confirmed instances of pandemic-related corruption in at least 8 countries in the region

early September 2020, the Federal Public Prosecutor's Office formalized an accusation against the Governor and 11 other people (Ministério Público Federal 2020).

In **Ecuador**, the Comptroller General of the State sent to the Prosecutor's Office 5 reports containing irregularities and overprices of up to 1,300 per cent in the purchase of body bags and other sanitary supplies (Contraloría General del Estado 2020). In **Panama**, there are multiple ongoing investigations in the Prosecutor's Office for similar irregularities (EFE Agencia 2020d), as well as in **Peru** (El Comercio 2020a) and **Paraguay** (EFE Agencia 2020a).

This increase in alleged corruption cases in response to the COVID-19 pandemic has catastrophic consequences for both human lives and democracy. The purchases of unsuitable equipment and materials risk lives while also distracting authorities from their efforts to control the health crisis. Moreover, in a region where the fiscal situation is very precarious, every case of corruption is a missed opportunity to use public resources wisely and to protect the most vulnerable. In the current context of despair that is emerging due to the pandemic and its matching economic crisis, the lack of public trust towards democratic institutions can rapidly turn into anger, with serious outcomes for the stability of the region now and after the pandemic. Controlling the pandemic and initiating economic recovery efforts will prove a titanic task without confidence in government authorities



Participatory  
Engagement

#### 2.1.5. Participatory Engagement

##### Challenge 1. Challenges to multi-level governance

The COVID-19 pandemic has shown the importance of enhancing cooperation between different levels of government to deal with the health and economic crises more effectively. However, **the pandemic has seen numerous conflicts play out between different levels of government, particularly regarding declarations of SoE and the length of lockdowns, delaying official responses and increasing political instability.**

In the case of **Chile**, an attempt by President Piñera to centralize the response to the pandemic with emergency powers failed, in part due to the great support mayors receive in their own territories and the knowledge they have of local realities. In **Colombia**, frictions occurred at the beginning of the pandemic between the central government and mayors and governors of subnational units, in particular the Capital District of Bogotá, due to confusion caused by central government guidelines. In the end, subnational-level governments acquiesced to follow the central government's guidelines after enhancing coordination and granting some concessions (Ramírez de la Cruz et al. 2020). In the case of **Mexico**, there are no guidelines clearly defining the role of state and municipal governments during the pandemic, with state governments taking different courses of action depending on their human and financial capacity and triggering an unequal response across the country (Ramírez de la Cruz et al. 2020). In **Brazil**, pre-pandemic frictions between central and subnational governments have been exacerbated during pandemic, triggering clashes between President Bolsonaro and governors over COVID-19 restrictions (Abrucio et al. 2020).

One key aspect that will impact multi-level governance in the years ahead is the deteriorated state of public finances, which will entail fewer resources for all levels of government, especially for local governments highly dependent on transfers from the central government—and this can trigger new conflicts. As an example, in **Ecuador**, the Ecuadorian Association of Municipalities has called on President Moreno to engage in dialogue with local authorities over the USD 500 million debt owed to municipalities by the central government, which the government has withheld alleging that the funds are needed to deal with the COVID-19 emergency (El Universo 2020).

All 23 countries in the region have experienced protests during the pandemic despite restrictions

## Challenge 2. Social discontent and mobilization

Latin America was bursting from mass mobilization immediately prior to the pandemic. A delegitimization of political parties has led growing middle classes in the region to increasingly channel their demands through civic organizations and new forms of civic activism with a protest wave sweeping the region in 2019. In the last months of 2019, more than 1 million people took to the streets of Chile, moved by a deep sense of inequality in the country and demanding constitutional reform. Mass protests were also seen in countries such as Colombia, Ecuador and Haiti.

**Social mobilization has continued to grow in the region despite the restrictions imposed by the pandemic.** All countries in the region have experienced protests during the pandemic. In some cases, protesters have been met with police force. Venezuela is one of the countries that has seen high levels of social mobilization during the pandemic. Between 28 September and 1 October 2020, there were a total of 237 protests recorded in 21 states with protesters demanding better living conditions (Infobae 2020). Despite the pandemic and with an SoE still in place, protests and clashes with the police erupted again in Chile in May and have continued until September (BBC News Mundo 2020a; Deutsche Welle 2020a). Protests also erupted in Ecuador in May 2020 against the government's measures to deal with an acute economic crisis amid the pandemic (BBC News Mundo 2020b).

Other demonstrations have occurred across the region by groups protesting against lockdown measures, demanding the opening of economic activities and opposing proposed measures to avoid a collapse in public finances. While these protests are a healthy sign of social activism and mobilization, they could, if left unattended, grow into destabilizing civic discontent that will make it harder for governments to tackle the crisis at hand. This is particularly concerning in a context where traditional electoral channels for voicing opinions and electing and removing leaders have been temporarily suspended or postponed due to the pandemic (mainly elections) and where political dialogue between the citizenry and political parties lacks effective institutionalized channels.

This disconnect can be further exacerbated if parties and political leaders do not appear responsive to citizen needs in a situation of economic and health hardship for most people in the region. If corruption is added to the mix of economic recession and civic anger, the consequences can be catastrophic for the region. New inclusive spaces for dialogue are needed in the region, as well as responsive political parties and representatives, to bridge the gap between citizen demands and state action in order to rebuild a more inclusive social contract for the region.



## 2.2. Opportunities for democracy

### Opportunity 1. Electoral resilience and adaptation

**Despite the severe constraints that the pandemic has imposed on electoral calendars, some examples have revealed important reserves of electoral resilience in the region.** Every election or other type of electoral process that is held successfully during the pandemic prevents future political crises and opens avenues for political dialogue and negotiation, especially in countries with political stalemates or deep civic discontent. Moreover, these cases provide valuable examples and lessons learned for other countries to follow suit. They demonstrate that holding elections with integrity during a pandemic is possible, even under strenuous circumstances.

For example, in the **Dominican Republic**, the general elections of 5 July 2020 (originally scheduled for 17 May 2020) were the first of their type in the region since the start of the pandemic. Voter turnout for the presidential vote (55 per cent) was 14 percentage points lower than for the 2016 elections (69 per cent)—the lowest in the country since 1974; for the parliamentary vote, turnout was 12 percentage points lower (from 67 per cent in 2016 to 55 per cent in 2020), although the country had experienced similar and even lower parliamentary voter turnouts in previous elections. Despite the low voter turnout, the Electoral Observation Mission (EOM) of the OAS characterized the elections as ‘successful’ and commended the extraordinary efforts of the electoral authorities in organizing the elections. The Central Electoral Board issued sanitary guidelines that, among other inputs, used best practice recommendations from the National Election Commission of South Korea. The EOM recognized the implementation of the guidelines; however, it also reported episodes outside voting centres where significant crowds of people did not practise physical distancing, as well as other practices unrelated to the pandemic that could affect the integrity of the elections (OAS 2020a). Opposition candidate Luis Abinader won the elections in the first round and was sworn in as President in mid-August.

General elections were also held in **Trinidad and Tobago** on 10 August; however, due to quarantine regulations international observers did not participate in the process. Although at the time of the elections the country had a low number of COVID-19 cases, relatively speaking, campaign rallies were substituted with motorcades, and supporters were urged to celebrate at home (BBC News 2020b). Prime Minister Rowley’s new cabinet was sworn in on 19 August.

On 27 September 2020, **Uruguay** finally held successful departmental and municipal elections originally scheduled for 10 May. The elections proceeded without incidents and following sanitary protocols developed by the Electoral Court with the support of the Ministry of Public Health and the National Emergency System (Corte Electoral República Oriental del Uruguay 2020a). Although no external observers were present, the Electoral Court stated that the elections went smoothly, voting went quickly, and sanitary protocols were respected (Caredio and Bartaburu 2020). According to the Electoral Court, voter turnout was high with 90 per cent of registered electors attending the polling booths (Merco Press 2020b), slightly higher than the 2015 departmental elections, which saw an 88 per cent voter turnout (Corte Electoral República Oriental del Uruguay 2015).

In **Bolivia**, the October 2020 elections resulted in victory for Luis Arce, the candidate of the Movement for Socialism (Movimiento al Socialismo, MAS) party (the same party of former President Evo Morales), who won 55 per cent of the vote (Phillips and Collins 2020). The opposition

#### BOX 6

#### Municipal and departmental elections in Uruguay during the pandemic

In order to prevent the spread of infections, the Electoral Court of Uruguay constituted the Sanitary Protocol for the electoral day of the departmental and municipal elections (Corte Electoral República Oriental del Uruguay 2020a). To ensure the proper application of the protocol, all personnel had received information and virtual training relating to the health plan for election day (Corte Electoral República Oriental del Uruguay 2020b). Measures applicable to both voters and staff at all 7,135 polling stations included the mandatory wearing of masks, sanitizing hands, and maintaining social distance (Corte Electoral República Oriental del Uruguay n.d.a). Each polling facility provided access to cleaning kits with soap, detergent, alcohol gel, disposable napkins, face masks and gloves (Merco Press 2020a). In addition, electoral officials had to wear gloves at all times and had to ensure proper ventilation and disinfection of voting facilities. Voters were not allowed to close their ballot envelope with saliva (Corte Electoral Comunicación 2020). Since Uruguayans often tend to celebrate electoral victories, the announcements of election results were pushed to the following Monday instead of the evening of election day to avoid large public gatherings (Merco Press 2020a). Special voting arrangements such as postal voting or overseas voting are not existent in Uruguay (Merco Press 2020a). The Electoral Court did not make an additional protocol for people affected by COVID-19 or in quarantine (Uruguay 1050AM 2020). By law, voting in the elections is mandatory unless voters present a justification such as a medical certificate issued by a physician within 30 days after election day (Corte Electoral República Oriental del Uruguay n.d.b). People that did not provide justification were fined (Corte Electoral República Oriental del Uruguay n.d.c).



accepted the election results and no violence or irregularities were reported (OAS 2020b). This will hopefully put Bolivia back on a democratic path, albeit fraught with fragility and within a highly polarized political context. The consolidation of Bolivia's democracy will require that both the winning MAS party and the opposition in parliament overcome their political differences and reduce levels of political polarization in the country. The MAS will need to overcome its historical tendency to use its parliamentary majority to weaken the rule of law, while the opposition will need to recognize the democratic legitimacy of the Arce administration.

In **Chile**, the constitutional plebiscite took place on 25 October 2020 and resulted in a resounding yes (78 per cent) in favour of a new constitution to replace the one passed by the former military regime in 1980 (BBC News 2020c).

## Opportunity 2. Digitalization and innovation

**The COVID-19 pandemic prompted governments, businesses and citizens alike to rapidly adapt to the use of digital technologies to continue functioning.** The agility with which they have been able to adopt these technologies and implement digitalization strategies has clear implications for democracy. More citizens with the ability to work from home facilitated compliance with lockdown and quarantine measures, ensured governments could continue to provide some basic public services, and helped parliaments and judiciaries to continue—even if to a limited degree—with law-making and law enforcement processes during the pandemic. While these transformations in the region have been restricted by low rates of connectivity and digitalization compared with other regions (CAF 2020), the pandemic has triggered some important changes and emphasized the need to further accelerate digitalization.

According to a recent study published by CAF (Corporación Andina de Fomento–Banco de Desarrollo de América Latina), the countries in the region with better broadband infrastructure have been better able to counteract, at least partially, the impact of the pandemic. Likewise, those countries that have developed robust digital government platforms in recent years, such as Argentina, Brazil, Chile, Mexico and Uruguay, have been better placed to face the disruptions presented by the pandemic, increasing their states' digital resilience (CAF 2020). The expansion and improvement of digital government initiatives in the region is therefore a welcome by-product of the pandemic.

Both parliaments and judiciaries have made extraordinary efforts to continue operating under the pandemic using digital technologies. Most parliaments in the region have continued functioning during the pandemic through the rapid development of new technological capabilities (see Challenge 2 in section 2.1.3). In **Peru**, for example, Congress approved a new method for voting in virtual sessions during the pandemic (RPP 2020). Other parliaments have implemented measures to maintain transparency and access to information, including publication of agendas and live streaming of sessions (**Brazil, Ecuador and Mexico**); accountability of extraordinary expenses and changes in the way staff work (**Chile and Colombia**); and public participation in legislative matters through digital apps (Chamber of Deputies of **Mexico** and Federal State of **Brazil**) (Directorio Legislativo and ParlAmericas 2020).

Digital technologies represent an opportunity to modernize outdated processes for democratic decision-making, especially as these can lead to increased transparency and efficiency in decision-making and in the provision of services. For example, with regards to judicial services, in Colombia, Costa Rica, Mexico and Panama judicial virtual audiences have been enabled for urgent matters (Arellano et al. 2020).

In a region where citizens feel highly detached from their governments and representatives, digitalization offers an opportunity to boost economic growth, counteracting some of the profound economic impacts of the COVID-19 pandemic and driving inclusion. The latter is crucial not only to reduce socio-economic gaps in the region but also to build more participatory and accountable democratic systems. However, it requires firm measures to help bridge the digital divide to ensure that all population groups can equally benefit from these advances.

### Opportunity 3. Local democracy cooperation

**The COVID-19 pandemic has shown the importance of enhancing cooperation between different levels of government to deal with the health and economic crises, with more or less permanent committees or other type of structures set up to coordinate responses.** While conflicts between different levels of government have played out during the pandemic, there are also examples of collaboration. For example, in **Argentina**, meetings have taken place between mayors of different political denominations and the president—usually a very infrequent occurrence, given that provinces are responsible for municipal regimes—with positive results in handling public health aspects of the pandemic (Ramírez de la Cruz et al. 2020). In **Brazil**, institutionalized instances of intra-municipality cooperation have helped small or weak municipalities to access health supplies (Ramírez de la Cruz et al. 2020). In the case of **Chile**, municipal associations have proved essential when taking local authorities' claims to the central government and expanding their competencies in dealing with the pandemic locally (Ramírez de la Cruz et al. 2020). The Chilean Government has established the Social Committee for COVID-19 (*Mesa social por COVID-19*) with the participation of municipal associations, government authorities, academics and professionals from the health sector (OECD 2020).

**Central governments of many countries have also decided to continue transferring resources to subnational governments, even in the short term.** Mexico created a subnational stabilization fund (*fondo de estabilización subnacional*) to maintain the level of transfers from the federal government, and in Brazil, Chile and Honduras funds from the federal government have been transferred to subnational governments to deal with the health emergency. In Peru and Uruguay, central governments have made more flexible 'conditional transfers' (*transferencias condicionadas*) and in Colombia the procedures to transfer money for investment projects have also been made more flexible (Radics and Rodríguez 2020). In Costa Rica and Paraguay, on the other hand, the parliament has increased the legal spending threshold for municipalities (Sequeira 2020; SILpy 2020).

### Opportunity 4. Institutional resilience

**While the pandemic has exacerbated some tendencies at play prior to the pandemic, such as executive overreach in hyper-presidential systems, it has also provided numerous examples of citizens and democratic institutions actively opposing such attempts.**

For example, in **Bolivia**, concerns were raised about a series of decrees criminalizing speech related to the pandemic, which were later repealed due to public outcry. A similar situation occurred in **Honduras**, where President Hernández re-established freedom of expression after restricting it in a declaration of emergency. Likewise, journalists in **El Salvador** were initially not exempted from leaving the house during lockdown, although this decision was later revoked (Christie, Lanza and Camilleri 2020).

**Moreover, the legality and constitutionality of a majority of declarations of SoEs under the pandemic, alongside other issued regulations or actions carried out under their remit—most notably punitive measures such as detentions, lockdowns and curfews—have been challenged in courts by multiple actors.** Courts, and especially constitutional courts, have therefore become central actors in counteracting executive aggrandizement in the region. Hence, while the pandemic has increased the risk of executive overreach, the resilience of democratic institutions and a scrutinizing citizenry and media are key to counteracting such tendencies, during the pandemic and after.

### **Opportunity 5. Redefining the terms of social contracts**

At the centre of the 2019 wave of protests was a conviction that democracy in the region was not delivering sufficiently to fulfil citizens' expectations of reduced poverty and inequality, quality public service provision and an improvement in economic and human development standards. When the COVID-19 pandemic hit the region a few months after the 2019 protests, governments had to confront this pre-pandemic reality, while at the same time dealing with the health emergency and the ensuing economic crisis resulting from measures to curb contagion. Large sections of the population were not able to 'work from home' during lockdowns, given the high levels of informality of the region's economies; hospitals and health systems in many countries have been severely strained; and thousands of citizens needed direct state economic assistance to avoid a humanitarian crisis. Most public education systems were—and still are—unable to teach children and adolescents remotely. In other words, the human and socio-economic costs of the COVID-19 pandemic in the region were higher due to structural shortcomings at the heart of its democratic systems of government and welfare state institutions.

**The economic crisis resulting from the pandemic will likely deepen popular dissatisfaction and the socio-economic gaps already existing in the region.** More protests and social unrest should be expected, especially after measures such as lockdowns and quarantines start to ease across the region. This presents a challenge but also an opportunity for governments to think innovatively about how to open up spaces for dialogue and civic participation in order to build more inclusive, sustainable and interconnected societies, as well as more accountable, transparent and efficient democratic systems of government. In short, there is a historic opportunity to redefine the terms of social contracts across the region. The decision by a majority of Chileans to enact a new constitution offers the most recent—and illustrative—example of the possibility to redefine the terms of the social contract in the region, especially after periods of social unrest. The COVID-19 pandemic will prompt the inevitable discussion across the region about ways to counteract the fiscal deficits resulting from the economic crisis. This may offer an opportunity to reform the regressive nature of the regions' tax systems, as part of the redefinition of the region's social contracts (CEPAL 2020: 98).

It will depend on the specific circumstances of each country whether that process takes place via (a) more traditional avenues, such as the establishment or reactivation of socio-economic councils or spaces of cross-sectoral dialogue; (b) electoral ones, such as the celebration of referendums and plebiscites; (c) technologically driven ones, such as digital platforms for participatory decision-making and budgeting; or (d) a combination of all of them. Either way, as the wave of protests of the past year has shown, 'politics as usual' will not suffice to communicate and engage with a citizenry deeply detached and frustrated with their democratic leaders and representatives.

### 3. Policy considerations

Based on the challenges and opportunities identified above, the following policy considerations have been developed as inputs to the debate by Daniel Zovatto, Director of International IDEA for Latin America and the Caribbean, and Sergio Bitar, Board Member of International IDEA.

- 1. Prevent the abuse of emergency powers.** An excessive and illegal concentration of powers in the executive debilitates checks and balance and the rule of law, while also posing a risk to human rights. Freedom of expression and press must be vigorously protected. Parliaments, as legitimate representatives of the democratic will, must also reclaim their oversight capacity of the exercise of emergency powers by the executive. Judicial controls must always be in place in order to prevent abuses and guarantee the temporary nature of SoEs. Restrictions to freedom of movement must follow the principles of pro-persona, proportionality and temporariness as well as clear objectives to protect public health and personal integrity. This must be accompanied by making a responsible use of the armed forces to assist in the midst of the pandemic, excluding granting them powers to enforce public order.
- 2. Protect constitutional courts.** Courts in general, and constitutional courts in particular, have been playing a central role in holding executives to account for the enactment and enforcement of declarations of SoEs. In order to protect constitutional checks and balances and human rights, constitutional courts' rulings must be respected, but also defended from attacks against their legitimacy. SoEs cannot become an excuse for democratic representatives to avoid controls and accountability, especially constitutional ones. On the contrary, constitutional oversight must be permanently in place.
- 3. Ensure elections take place.** Elections and other forms of direct democracy must proceed while seeking an equilibrium between people's health and democratic expression. Governments must guarantee full respect of political rights, as well as adequate standards of electoral integrity to ensure high levels of electoral participation. When it is not possible to hold elections due to health reasons, their postponement must be widely agreed between the different domestic political forces, and a new date must be set. Urgent attention must be given to the design and implementation of special voting arrangements (i.e. postal vote, staggering elections), in ways compatible with the protection of electoral integrity. Social media platforms and companies should also be properly regulated to ensure ethical practices and transparency during elections.
- 4. Opening new spaces for dialogue and inclusion.** The region lacks effective mechanisms for political and social dialogue that can help channel civic discontent and foster broad national agreements. It will be necessary to open new, inclusive, and institutionalized spaces to encourage participation by citizens, inform public policy decisions, and reduce inequalities in political participation. Setting up socio-economic and environmental councils at both the national and local level can facilitate democratic decision-making, reduce political polarization, and counteract authoritarian temptations. Special attention should be given to increasing and ensuring the participation of women, as well as of other traditionally excluded groups of society, in consultation and decision-making spaces. Redefining the terms of social contracts in the region will require both strengthening traditional processes of democratic decision-making and creating new spaces for dialogue and negotiation. Without these new spaces, social discontent and protests are certain to increase in the region.
- 5. Design efficient and responsive states.** The post-pandemic state will have a greater weight in the conduct of society. In that context, states must have the capacity to bring together multiple views, protect the most vulnerable, and encourage innovation at all levels of society. They must strengthen their capacity to respond in a timely and effective manner to new citizen demands through quality public policies, a solid fiscal base, and increased levels of accountability. A central priority in the post-pandemic stage will be to provide robust public services, especially those necessary to protect people's health and personal integrity.

- 6. Improve regional coordination spaces and integration mechanisms.** At a global level, international organizations have shown limited capacity for intervention during the pandemic, leaving the United States and China to take centre stage. Latin America and the Caribbean's political and economic interests are highly sensitive to weakened multilateralism. The increasing fragmentation and polarization of Latin American integration also constitutes a growing threat to its common interests. Collaboration is essential to defending the region's interests and forging multilateral rules. The way out of this crisis is not through isolationist or nationalist responses, but through greater coordination and cooperation at the regional and global level.
- 7. Foster good governance.** This can be achieved through a permanent post-pandemic process of institutional political innovation. The goal is to recover the trust of citizens in politics, democracy, democratic institutions and their leaders and representatives, in order to strengthen democratic governance in the 21st century. Bad governance hurts democracy. To boost good governance, it is vital to establish schools of government and public policy in order to train incumbent representatives and members of political parties and civil society groups in the design and evaluation of public policies, project management, and the fundamentals and benefits of democratic governance. Cultivating good democrats is a prerequisite for protecting and improving democracy.
- 8. Inclusive and sustainable economic growth.** Once the health crisis has been tackled, governments must focus their attention on economic recovery. However, efforts to rekindle economic growth in the region need to be focused on building back better to ensure that growth is both environmentally sustainable and inclusive of all groups in society. Inclusive growth will require more productive and competitive economies, product diversification, responsible macroeconomic management, progressive tax systems, combating tax evasion and corruption, a more equitable public service provision and social protection for the most vulnerable. The protection of the environment and the use of technology, innovation and research will be crucial to engage in the ongoing smart technology development known as the 'Fourth Industrial Revolution'. The UN 2030 Agenda must underpin all of these efforts.

## Conclusion

Latin America and the Caribbean's democratic journey has not been easy. After the initial euphoria of the third wave of democratization, with Cuba as the only non-democratic regime, in 2019 the region contained 3 additional non-democracies: Bolivia, Nicaragua and Venezuela. The situation is even more daunting if we consider the steady process of democratic erosion that many countries in the region have experienced over the past decade. In other words, the region is running out of the democratic reserves it has built up over 4 decades. While those reserves endured the financial crisis of 2008–2009, they may not be as strong regarding the COVID-19 pandemic. This is partly due to the magnitude of the disruptions that the pandemic has entailed, but also to the gradual degradation of the quality of democracy in Latin America and the Caribbean over the past decade.

Long-overdue political and socio-economic reforms in the region have compounded the health crisis at the centre of the COVID-19 pandemic and the ensuing economic crisis, posing serious challenges to democracy. These include: the postponement of elections; excessive use of police force; use of military force to carry out civil tasks; persistent crime and violence; new dangers for the right to privacy; increases in gender inequality and domestic violence; new risks posed to vulnerable groups; limited access to justice; restrictions on freedom of expression; executive aggrandizement; reduced parliamentary oversight; political polarization and clashes between democratic institutions; new openings for corruption; and a discontented socially mobilized citizenry that shuns traditional forms of political representation.



Citizens and institutions are also fighting back attempts at democratic weakening. Despite the unprecedented levels of disruption produced by the COVID-19 pandemic, it is also possible to identify some silver linings for democracy during the pandemic: the electoral resilience of countries holding elections and the lessons they present for others to follow suit; the acceleration of digitalization and innovation; local cooperation; and the opening up of spaces for dialogue to redefine the terms of social contracts in the region. Likewise, in a region already characterized by processes of judicialization, courts—and especially constitutional courts—have been playing a central role in containing executive aggrandizement, protecting rights and enforcing constitutional checks and balances. In the case of parliaments, while previously overrun by the executives in the initial stages of the pandemic, they are now playing a more active role in scrutinizing governments' COVID-19 strategies and debating economic recovery packages.

Latin America and the Caribbean thus entered a new decade facing monumental challenges. Moreover, the region was already lagging in adapting to wide-scale transformations such as the Fourth Industrial Revolution, climate change and the reconfiguration of globalization due to geopolitical tensions between the United States and China. As a result, Latin America and the Caribbean will take longer than other more developed regions to overcome the health and economic crises that COVID-19 has brought and to re-embark on a path of social stability and economic growth.

To achieve that, however, there are no shortcuts. Going back to the ways of the past is not a possibility. The only option for the region is to advance ambitious reforms to improve its socio-economic and democratic standards, based on equitable, accountable, sustainable and inclusive growth. Naturally, this will require the emergence of numerous proposals about how to better achieve those goals. The debates will not be simply ideological. Voters will also take into consideration policy issues beyond the traditional left–right divide in the region. Democracy defenders across the ideological spectrum must reflect on the present and future challenges for the region to protect and improve democracy. Otherwise, populist or authoritarian alternatives will have the upper hand in a region marked by discontent, unemployment, violent crime and corruption.

Perhaps the most important question to ask is: Has Latin America and the Caribbean learned from the COVID-19 pandemic? This Special Brief implies a mixed response. It is, however, too early to make unreserved predictions and to reach categorical conclusions. But there is also a risk in thinking that the pandemic is just an impasse. This account demonstrates that democracy in the region faced significant challenges before the pandemic. The opening that the current crisis presents—to rethink and transform the region's democratic paradigms and performance—must be seized sooner rather than later.

<sup>1</sup> International IDEA's GSoD Indices 2019 cover 23 countries in the Latin America and the Caribbean region: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago, Uruguay, and Venezuela.

<sup>2</sup> Dominican Republic, Haiti, Honduras and Peru.

<sup>3</sup> Argentina, Barbados, Chile, Costa Rica, Jamaica, Panama and Uruguay.

<sup>4</sup> The underlying indicators and criteria for the 3 regime types developed by International IDEA (democracies, hybrid regimes and authoritarian regimes) are provided in the *Global Monitor of COVID-19's Impact on Democracy and Human Rights: Methodology and Codebook* (Stockholm: International IDEA, [n.d.]).

<sup>5</sup> The GSoD Indices 2019 classify Nicaragua as a hybrid regime because its Representative Government score in 2019 was 0.38, slightly above the 0.35 threshold to classify as an authoritarian regime. However, if confidence intervals are taken into account, the score would reach below 0.35. Nicaragua was therefore already borderline authoritarian in 2019, according to this measure. The deepening autocratization observed during 2020 in the country is likely to lead to further declines in Nicaragua's democratic performance score, which will be reflected in the GSoD Indices for 2020 (which will be published in 2021).

<sup>6</sup> Note that Bolivia is classified by the GSoD Indices as a hybrid regime in 2019. The October 2020 elections have put Bolivia back on a democratic path and therefore the classification of hybrid regime for Bolivia holds until October 2020. The new GSoD regime classification for Bolivia will however appear in the GSoD Indices 2020, which will only be published in 2021.

<sup>7</sup> The generic term 'states of emergency' will be used throughout the document to refer to the lawful declaration that authorizes the executive branch to use exceptional powers to handle the COVID-19 pandemic. The authors recognize that the name, procedures to enact and content of these declarations vary across the region's legal orders. Further research expects to develop a clearer typology.

<sup>8</sup> This includes all countries in the region and not just the 23 covered by the GSoD Indices.

<sup>9</sup> Covers Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Dominican Republic, Uruguay and Venezuela.

## Abbreviations

<b>CAF</b>	Corporación Andina de Fomento—Bancode Desarrollo de América Latina
<b>ECLAC</b>	Economic Commission for Latin America and the Caribbean
<b>EOM</b>	Electoral Observation Mission
<b>FARC</b>	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia)
<b>GSoD</b>	Global State of Democracy
<b>IACHR</b>	Inter-American Commission on Human Rights
<b>ILO</b>	International Labour Organization
<b>IMF</b>	International Monetary Fund
<b>LAC</b>	Latin America and the Caribbean
<b>LAPOP</b>	Latin American Public Opinion Project
<b>LGBTI</b>	Lesbian, gay, bisexual, transgender and intersex
<b>MAS</b>	Movement for Socialism (Movimiento al Socialismo)
<b>OAS</b>	Organization of American States
<b>SoE</b>	State of emergency
<b>UN Women</b>	United Nations Entity for Gender Equality and the Empowerment of Women

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